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**LEGISLATIVE RESEARCH  
COMMISSION ACTIVITIES  
1983-1985 BIENNIUM**



**SUMMARIES PREPARED  
BY  
LEGISLATIVE SERVICES OFFICE**

**REPORT TO THE  
1985 GENERAL ASSEMBLY  
OF NORTH CAROLINA**

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STATE OF NORTH CAROLINA  
LEGISLATIVE RESEARCH COMMISSION  
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December 13, 1984

TO THE MEMBERS OF THE 1985 GENERAL ASSEMBLY

The Legislative Research Commission directed its staff to prepare a report outlining the work of its committees during the 1983-1985 biennium. This report contains a brief summary of each committee's progress and describes the number of committee meetings, subjects studied, findings and recommendations.

These summaries were prepared by the staff to the individual committees to provide brief overviews of the committees' work. These summaries do not modify nor should they be considered as modifying the Commission's report. The individual report by the Legislative Research Commission is authoritative. Copies of the Legislative Research Commission's reports may be obtained from the Legislative Library, Room 2126, State Legislative Building, Raleigh, North Carolina 27611. [Telephone: (919) 733-7778].

Terrence D. Sullivan

*Terrence D. Sullivan*  
Director of Research  
Legislative Services Office

TDS:sc





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## LEGISLATIVE RESEARCH COMMISSION

### INTRODUCTION

The North Carolina Legislative Research Commission is an interim study organization of the General Assembly. Authorized by North Carolina General Statutes §120-30.10 through §120-30.18, the Commission undertakes studies by direction of resolutions from the preceding legislative session or by direction of the commission chairmen. The Commission, in view of its limited monies, decided not to fund all authorized studies and referred some studies to other State agencies and Commissions. A list of all studies authorized to be conducted by the Commission and each's disposition begins on page 8.

The Commission is chaired by the President Pro Tempore of the Senate and the Speaker of the House of Representatives, and the chairmen appoint five members from their respective houses. By tradition, the Commission has produced its studies working through committees responsible to Commission members and made up of other members of the General Assembly assisted by advisory members from outside the General Assembly.

This publication contains a list of all the interim study committees funded by the Legislative Research Commission and a summary of each committee's work.

LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

House Speaker Liston B. Ramsey,

Cochairman

Representative Chris S. Barker, Jr.

Representative John Trammell Church

Representative Bruce Ethridge

Representative John J. Hunt

Representative Margaret Tennille

Senate President Pro Tempore,

W. Craig Lawing, Cochairman

Senator William N. Martin

Senator Helen Rhyne Marvin

Senator William W. Staton

Senator Joseph E. Thomas

Senator Russell Walker

GENERAL STATUTES OF NORTH CAROLINA

Article 6B.

Legislative Research Commission.

§ 120-30.10. Creation; appointment of members; members ex officio. -- (a) There is hereby created a Legislative Research Commission to consist of five Senators to be appointed by the President Pro Tempore of the Senate and five Representatives to be appointed by the Speaker of the House. The President Pro Tempore of the Senate and the Speaker of the House shall be ex officio members of the Legislative Research Commission. Provided, that when the President of the Senate has been elected by the Senate from its own membership, then the President of the Senate shall make the appointments of the Senate members of the Legislative Research Commission, shall serve ex officio as a member of the Commission and shall perform the duties otherwise vested in the President Pro Tempore by G.S. 120-30.13 and 120-30.14.

(b) The cochairmen of the Legislative Research Commission may appoint additional members of the General Assembly to work with the regular members of the Research Commission on study committees. The terms of the additional study committee members shall be limited by the same provisions as apply to regular commission members, and they may be further limited by the appointing authorities.

(c) The cochairmen of the Legislative Research Commission may appoint persons who are not members of the General Assembly to advisory subcommittees. The terms of advisory subcommittee members shall be limited by the same provisions as apply to

regular Commission members, and they may be further limited by the appointing authorities. (1965, c. 1045, s. 1; 1975, c. 692, s. 1.)

§ 120-30.11. Time of appointments; terms of office.--Appointments to the Legislative Research Commission shall be made not earlier than the close of each regular session of the General Assembly held in the odd-numbered year nor later than 15 days subsequent to the close. The term of office shall begin on the day of appointment, and shall end on December 15 of the next even-numbered year. Except for the work of the Administrative Rules Review Committee, no moneys appropriated to the Legislative Research Commission may be expended for meetings of the Commission, its committees or subcommittees held after December 15 of the next even-numbered year and before the appointment of the next Legislative Research Commission. (1965, c. 1045, s. 2; 1975, c. 692, s. 2; 1977, c. 915, s. 4; 1981, c. 688, s. 19; 1983, c. 63, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 178.)

§ 120-30.12. Vacancies.--Vacancies in the appointive membership of the Legislative Research Commission occurring during a term shall be filled for the unexpired term by appointment by the officer who made the original appointment. Vacancies in the ex officio membership shall be filled for the unexpired term by election by the remaining members of the Commission. Every vacancy shall be filled by a member of the same house as that of the person causing the vacancy.

If for any reason the office of President Pro Tempore of the Senate becomes vacant, the five Senate members of the Legislative Research Commission shall elect one of their own number to perform and exercise the duties imposed and powers granted

pursuant to this Article, and such Senator so elected shall serve until the Senate shall elect a President Pro Tempore. If for any reason the office of Speaker of the House of Representatives becomes vacant, the five members of the House of Representatives of the Legislative Research Commission shall elect one of their own number to perform and exercise the duties imposed and powers granted pursuant to this Article, and such member of the House of Representatives so elected shall serve until the House of Representatives shall elect a Speaker. (1965, c. 1045, s. 3; 1969, c. 1037.)

§ 120-30.13. Cochairmen; rules of procedure; quorum.--The President Pro Tempore of the Senate and the Speaker of the House shall serve as cochairmen of the Legislative Research Commission. The Commission shall adopt rules of procedure governing its meetings. Eight members, including ex officio members, shall constitute a quorum of the Commission. (1965, c. 1045, s. 4.)

§ 120-30.14. Meetings.--The first meeting of the Legislative Research Commission shall be held at the call of the President Pro Tempore of the Senate in the State Legislative Building or in another building designated by the Legislative Services Commission. Thereafter the Commission shall meet at the call of the chairmen. Every member of the preceding General Assembly has the right to attend all sessions of the Commission, and to present his views at the meeting on any subject under consideration. (1965, c. 1045, s. 5; 1981, c. 772, s. 1.)

§ 120-30.15: Repealed by Session Laws 1969, c. 1184, s. 8.

§ 120-30.16. Cooperation with Commission.--The Legislative Research Commission may call upon any department, agency, institution, or officer of the State or of any political

subdivision thereof for such facilities and data as may be available, and these departments, agencies, institutions, and officers shall cooperate with the Commission and its committees to the fullest possible extent. (1965, c. 1045, s. 7.)

§ 120-30.17. Powers and duties.--The Legislative Research Commission has the following powers and duties:

- (1) Pursuant to the direction of the General Assembly or either house thereof, or of the chairmen, to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner.
- (2) To report to the General Assembly the results of the studies made. The reports may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations.
- (3), (4) Repealed by Session Laws 1969, c. 1184, s. 8.
- (5) Repealed.
- (6) Repealed. (1965, c. 1045, s. 8; 1969, c. 1184, s. 8; 1977, c. 915, s. 3; 1981, c. 688, s. 2.)
- (7) To obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.
- (8) To call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1



through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena. (1965, c. 1045, s. 8; 1969, c. 1184, s. 8; 1977, c. 915, s. 3; 1981, c. 688, s. 2; 1983, c. 905, s. 7.)

§ 120-30.18. Facilities; compensation of members; payments from appropriations.--The facilities of the State Legislative Building, and any other State office building used by the General Assembly, shall be available to the Commission for its work. Members of the General Assembly serving on the Legislative Research Commission or its study committees shall be reimbursed for travel and subsistence expenses at the rates set out in G.S. 120-3.1. Advisory subcommittee members shall be reimbursed and compensated at the rates set out in G.S. 138-5 (public members) and G.S. 138-6 (State officials or employees). All expenses of the Commission shall be paid from funds appropriated for the Commission. (1965, c. 1045, s. 9; 1975, c. 692, s. 3; 1981, c. 772, s. 2.)



## 1983-85 AUTHORIZED LEGISLATIVE RESEARCH COMMISSION STUDIES

The following is a list of the topics which the General Assembly (1983 and 1984 Sessions) authorized the Legislative Research Commission to study. Except where otherwise indicated, the original bill or resolution which outlines the scope of the particular study is incorporated by reference in Chapter 905 (HB 1142) of the 1983 Session Laws. Footnotes indicate which unfunded studies were referred to another agency or commission to be conducted and which group was to conduct each. Unless otherwise indicated, each Committee may report to the 1984 or 1985 Session of the General Assembly, or may make an interim report to the 1984 General Assembly and a final report to the 1985 General Assembly.

STUDY	SPONSOR	AUTHORIZATION	STAFF	PAGE
Aging	Rep. Economos, et al Sen. Gray	HJR 44, SJR 16	Young	44
Air Ambulance Service <sup>11</sup>	N/A	* _____	Jones	73
Alcoholic Beverages, State Property <sup>1</sup>	Rep. Clark	HJR 1292	N/A	
Animals, pounds	Rep. Stamey, et al	HJR 1309	Bryan	13
Banks, Savings & Loans	Sen. J. Edwards	SJR 381, Ch. 1113 (S706)	Sullivan	29
Biotechnology	Reps. Etheridge & Nesbitt & Sens. Hancock & R. Jordan	H 1122, HJR 1282, SJR 620; Ch. 899 (S534)	Rose	33
Certificates of Need <sup>2</sup>	Reps. Economos & Mavretic	HJR 1294	N/A	
Child Support <sup>1</sup>	Reps. Easterling & Colton, et al, & Sen. Woodard, et al	HJR 1439, SJR 675	N/A	
City & Town Incorporation	Sens. J. Edwards & Ballenger	SJR 445	Cohen	39
Coastal Submerged Lands <sup>11</sup>	Rep. Clark, et al	Ch. 1112, (H738) 10	Airall	74
Computer Literacy	Rep. Berry, et al	HJR 191	Fuerst	16
Day Care	Reps. Colton & Brennan	HJR 594	Sabre	17
District Attorneys <sup>3</sup>	Sen. Hipps	S 496	Rogers	52
Dix, Food Distribution <sup>1</sup>	Rep. James, et al	HJR 1334	N/A	
Driving by Minors <sup>1</sup>	Rep. J. Jordan	HJR 1149	N/A	
Eleemosynary Institutions <sup>4</sup>	Rep. Musselwhite	HJR 1423	Murray	79
Executive Branch Boards	Rep. J. Hunt	HJR 1321	Bryan	65

STUDY	SPONSOR	AUTHORIZATION	STAFF	PAGE
Farm Products Security Interest <sup>3</sup>	Sen. Jenkins	R 53 (SJR 622)	Airall	53
Foods, Unpackaged <sup>5</sup>	Rep. Stamey	HJR 1441	N/A	
Hazardous Substances Identification & Labelling	Rep. Payne, et al	H 1339	Long	22
Hazardous Wastes Strict Liability <sup>11</sup>	Rep. Clark, et al	Ch. 1112, (H738) <sup>10</sup>	Lefler	77
Health Professionals <sup>1</sup>	Rep. Diamont	HJR 1194	N/A	
Higher Education Regulation	Reps. B. Thomas & Miller	R 33 (HJR 988)	Sabre	19
Indigents, Legal Representation <sup>1</sup>	Sen. Swain, et al	SJR 643	N/A	
Information Processing, State Government <sup>1</sup>	Sen. Alford, et al	SJR 44	N/A	
Inspection of Motor Vehicles	Rep. J. Hunt	H 1142	Levenbook	67
Insurance Laws <sup>3</sup>	Reps. Seymour & Hightower, et al	H 63, H 1243	Hale	49
Insurance, Readable Policies <sup>3</sup>	Rep. Ballance, et al	H 1069	Hale	49
Legislative Confidentiality	Rep. Miller	HR 1461	Sullivan	40
Legislative Office Building <sup>1</sup>	Rep. Miller	Ch. 1112 (H738), (HJR250) <sup>10</sup>	N/A	
Life Care <sup>1</sup>	Sens. Hancock & Royall	SJR 657	N/A	
Motorboat Titles & Insurance <sup>6</sup>	Rep. J. Hunt	H 1142	Hale	68
Peat Mining & Large-Scale Land Clearing	Rep. Evans, et al	HJR 220	Fuerst	14
Pollution Prevention Pays Research Center <sup>7</sup>	Sen. W. Hunt, et al	R 54 (S 653)	Blackburn	80
Public Health Facilities	Sen. Hancock	SJR 656	Young	46
Railroads	Rep. J. Hunt	H 1142	Cohen	70
Register of Deeds <sup>3</sup>	Rep. Rabon, et al	H 1204 <sup>6</sup>	Rogers	52
Revenue Laws	Rep. Lilley, et al	HJR 16	Faires	58
Risk Management, State Government <sup>1</sup>	Rep. Seymour	HJR 1083	N/A	
Science Equipment <sup>1</sup>	Rep. Enloe, et al	HJR 898	N/A	
Seafood Marketing <sup>1</sup>	Rep. Chapin, et al	HJR 896	N/A	
Solar Law <sup>9</sup>	Sen. Walker	SJR 670	N/A	

STUDY	SPONSOR	AUTHORIZATION	STAFF	PAGE
State Rental Housing	Rep. J. Hunt	H 1142	Christian	61
Statutory Liens <sup>3</sup>	Sen. J. Edwards	S 680	Airall	53
Teacher Training, N.C. History, Economics, Legal Topics <sup>1</sup>	Rep. Foster, et al	H 1281	N/A	
Twelfth Grade <sup>1</sup>	Mauney, et al & Sens. Tally & Ward	HJR 753, SJR 343	N/A	
User Fees at State Facilities	Rep. J. Hunt	H 1142	Bryan	63
Water Pollution Control	Rep. Evans, et al	HJR 232	Blackburn	23
Water Quality-Haw River & Jordan Reservoir	Rep. Hackney, et al	HJR 1257	Long	26
Water Resources-N.C. & Va.	Reps. Church & James	HJR 1404	Fuerst	27
Women's Needs	Reps. Easterling & Colton, et al & Sen. Marvin, et al	HJR 904, SJR 329	Christian	41
Worthless Checks	Sen. R. P. Thomas	SJR 661	Airall	55

<sup>1</sup> Study not funded by LRC.

<sup>2</sup> Referred to Legislative Commission on Medical Cost Containment.

<sup>3</sup> Consolidated with another study.

<sup>4</sup> Referred to General Statutes Commission.

<sup>5</sup> Referred to Secretary of Human Resources.

<sup>6</sup> 1984 Reporting Date.

<sup>7</sup> Referred to Hazardous Waste Study Commission of 1983.

<sup>8</sup> Not in a ratified Chapter; authorized by LRC cochairmen pursuant to G.S. 120-30.17.

<sup>9</sup> Referred to Utility Review Committee.

<sup>10</sup> Authorized in Chapter 1112, rather than Chapter 905.

<sup>11</sup> 1985 reporting date.

GROUPING OF SUBJECTS STUDIED BY THE  
LEGISLATIVE RESEARCH COMMISSION

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III.	Environment	Rep. Ethridge	
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V.	Government	Sen. Marvin	
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GROUPING OF SUBJECTS STUDIED BY THE  
LEGISLATIVE RESEARCH COMMISSION

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I. AGRICULTURE

ANIMALS, POUNDS

Authorization: Chapter 905, §1, 1983 Session Laws (H. J. R. 1309)

Committee Members:

President Pro Tempore's Appointments

Sen. Vernon E. White,  
Cochairman  
P. O. Box 41  
Winterville, N. C. 28590  
Tel: 919/ 756-2920

Sen. Wanda H. Hunt  
P. O. Box 1335  
Pinehurst, N. C. 28374  
Tel: 919/ 295-3794

Sen. Wilma C. Woodard  
P. O. Box 189  
Garner, N. C. 27529  
Tel: 919/ 772-2339

Dr. James B. Pick  
Director, School of Medicine  
UNC at Chapel Hill  
Chapel Hill, N. C. 27514  
Tel: 919/ 966-3111

Dr. William Pryor, Jr.  
Director, Animal Research Center  
ECU School of Medicine  
Greenville, N. C. 27834  
Tel: 919/ 757-2420

Speaker's Appointments

Rep. Margaret Stamey,  
Cochairman  
6201 Arnold Rd.  
Raleigh, N. C. 27607  
Tel: 919/ 851-0495

Rep. Austin M. Allran  
Northwestern Bank Bldg.  
P. O. Box 2907  
Hickory, N. C. 28603  
Tel: 704/ 322-5437

Rep. David W. Bumgardner, Jr.  
P. O. Box 904  
Belmont, N. C. 28012  
Tel: 704/ 825-5301

Rep. Tom Matthews  
P. O. Box 1478  
Rocky Mount, N. C. 27801  
Tel: 919/ 446-8701

Rep. Richard Wright  
P. O. Box 457  
Tabor City, N. C. 28463  
Tel: 919/ 653-3682  
653-2082

Professional Staff: Mr. Dennis Bryan Tel: 733-2578  
Legislative Services Office  
Clerical Staff: Mrs. Lillie Pearce Tel: 733-5853

ANIMALS, POUNDS

The Legislative Research Commission Study Committee on The Disposition of Animals by Animal Pounds and Shelters met once and heard from speakers for and against the use of pound animals for experimental and research purposes. At that meeting, the Committee also heard from speakers on the possibility of establishing a statewide spay/neutering program to help control the State's stray animal population. Committee members were



apprised of legislation enacted in certain other states in regard to pound animal disposition and statewide spay/neutering programs. The Committee decided not to report to the General Assembly.

# PEAT MINING AND LARGE-SCALE LAND CLEARING

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.R. 220)

## Committee Members:

### President Pro Tempore's Appointments

Sen. Joseph E. Thomas,  
Cochairman  
P. O. Box 337  
Vanceboro, N. C. 28586  
Tel: 919/ 346-9721

Sen. J. J. Harrington  
P. O. Drawer 519  
Lewiston/Woodville, N. C. 27849  
Tel: 919/ 348-2192

Sen. R. P. Thomas  
P. O. Drawer 220  
Hendersonville, N. C. 28793  
Tel: 704/ 692-6472

Sen. Vernon E. White  
P. O. Box 41  
Winterville, N. C. 28590  
Tel: 919/ 756-2920

Mr. Hobart G. Truesdell  
President  
First Colony Farms, Inc.  
Rt. 1, Box 201  
Crestwell, N. C. 27928  
Tel: 919/ 797-4371

Professional Staff: Ms. Sarah Fuerst Tel: 733-6660  
Legislative Services Office  
Clerical Staff: Mrs. Lillie Pearce Tel: 733-5853

### Speaker's Appointments

Rep. Robert McAlister,  
Cochairman  
Rt. 1, Box 336  
Ruffin, N. C. 27326  
Tel: 919/ 939-9816

Rep. Edward C. Bowen  
Rt. 1, Box 289  
Harrells, N. C. 28444  
Tel: 919/ 532-4183

Rep. Daniel H. DeVane  
P. O. Drawer N  
Raeford, N. C. 28376  
Tel: 919/ 875-2528

Rep. Bruce Ethridge  
Rt. 2, Box 27  
Swansboro, N. C. 28584  
Tel: 919/ 326-5989

Rep. Charles Evans  
P. O. Box 189  
Manteo, N. C. 27954  
Tel: 919/ 473-2171

## PEAT MINING AND LARGE-SCALE LAND CLEARING

The Committee on Peat Mining and Large-Scale Land Clearing held three meetings in Raleigh and one public hearing in Roper during the course of its study. In the course of its deliberations, the

Committee heard testimony from State departments and agencies concerned about the regulation of peat mining and large-scale land clearing, from scientists involved in research for the State and federal governments, from persons applying for or holding peat mining permits and scientists employed by them, and from environmentalists. The Committee also heard from farmers, fishermen, public officials, and other concerned citizens living in the area directly affected by peat mining and large-scale land clearing. After having reviewed the information presented, the Committee made the following recommendations to the 1985 General Assembly:

(1) The Mining Commission should reevaluate its bond schedule for peat mining to assure that the required bond is adequate to cover the costs of reasonable rehabilitation for useful purposes of affected land and the protection of the natural resources of the surrounding area. The Mining Commission is requested to consider this recommendation at the earliest opportunity and to report its findings to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Director of the Research Division by May 1, 1985.

(2) The Department of Natural Resources and Community Development should commission additional studies on the cumulative impacts of peat mining and large-scale land clearing on coastal water quality, fisheries, wildlife, and air quality and quantity.

(3) The Department of Natural Resources and Community Development should perform an inventory of land clearing activities in the coastal area.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

II. EDUCATION

## COMPUTER LITERACY

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.R. 191)

## Committee Members:

## President Pro Tempore's Appointments      Speaker's Appointments

Sen. Henson P. Barnes,  
Cochairman  
P. O. Drawer 7  
Goldsboro, N. C. 27530  
Tel: 919/ 735-6420

Rep. Bertha M. Holt,  
Cochairman  
P. O. Box 1111  
Burlington, N. C. 27215  
Tel: 919/ 227-7333

Sen. Robert M. Davis, Sr.  
215 N. Main St.  
Salisbury, N. C. 28144  
Tel: 704/ 636-2181

Rep. Phillip O. Berry\*

Sen. Charles W. Hips  
Suite 305  
505 N. Main St.  
Waynesville, N. C. 28786  
Tel: 704/ 452-2866

Rep. Narvel Jim Crawford  
15 Edgemont Rd.  
Asheville, N. C. 28801  
Tel: 704/ 252-6972

Sen. William N. Martin  
P. O. Box 21363  
Greensboro, N. C. 27420  
Tel: 919/ 373-8405

Rep. Jeanne Fenner  
1003 W. Nash St.  
Wilson, N. C. 27893  
Tel: 919/ 237-2364

Sen. Kenneth C. Royall, Jr.  
P. O. Box 8766  
Forest Hills Sta.  
Durham, N. C. 27707  
Tel: 919/ 489-9191

Rep. H. Martin Lancaster  
P. O. Drawer 916  
Goldsboro, N. C. 27530  
Tel: 919/ 735-7275

Professional Staff: Ms. Sarah Fuerst Tel: 733-6660  
Legislative Services Office

Clerical Staff: Mrs. Lillie Pearce Tel: 733-5853

## COMPUTER LITERACY

The Committee on Computer Literacy met three times. In the course of its deliberations, the Committee heard testimony from educators and administrators at the university, community college and public school levels, from organizations concerned about education and from corporations which produce computer hardware and software. The Committee made the following recommendations in its final report to the 1984 Session of the 1983 General Assembly:

- (1) Basic computer awareness instruction should be provided at all levels of the public schools. We should not wait for more study or for teacher

# EDUCATION

training before implementing basic computer awareness instruction. We should begin immediately and phase it in over a two-year period, beginning with grades 7-12 in the first year. Basic computer awareness instruction should be funded by the State but each school system should decide the manner in which it is implemented (i.e.,--a nine-week session, 30 minutes per week, etc.). School systems should be accountable to the State that every student acquire basic computer awareness before graduation.

- (2) To assure that schools of education provide an appropriate level of training in computer awareness to prospective teachers, the Committee urges the State Board of Education to make such training for all graduates a requirement for accreditation of teaching colleges.
- (3) Computer laboratories in the public schools should be used to the maximum extent possible. They should be made available to the community colleges at night or during the summer if they are not otherwise being used by the public schools.
- (4) Computer ethics should be a part of the training of teachers and students.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

## DAY CARE

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.B. 594)

### Committee Members:

#### President Pro Tempore's Appointments

Sen. Lura Tally,  
Cochairman  
3100 Tallywood Dr.  
Fayetteville, N. C. 28303  
Tel: 919/ 484-4868

Sen. J. J. Harrington  
P. O. Drawer 519  
Lewiston/Woodville, N. C. 27849  
Tel: 919/ 348-2192

Sen. Marvin Ward  
641 Yorkshire Road  
Winston-Salem, N. C. 27106

#### Speaker's Appointments

Rep. Marie W. Colton,  
Cochairman  
392 Charlotte St.  
Asheville, N. C. 28801  
Tel: 704/ 252-1816

Rep. Louise S. Brennan  
2101 Dilworth Rd., East  
Charlotte, N. C. 28203  
Tel: 704/ 375-7954

Rep. Walter B. Jones, Jr.  
P. O. Box 668  
Farmville, N. C. 27828

Tel: 919/ 724-9104

EDUCATION  
Tel: 919/ 753-2549

Mrs. Agnes Love  
P.O. Box 26394  
Charlotte, N. C. 28213  
Tel: 704/ 596-4039

Rep. Margaret P. Keesee-Forrester  
204 N. Mendenhall St.  
Greensboro, N. C. 27401  
Tel: 919/ 274-3948  
275-7745

Mrs. John A. Tate, Jr.  
Davis Road  
Davidson, N. C. 28036  
Tel: 704/ 892-8835

Rep. Tom C. Womble  
7557 Tanglewood Ct.  
Clemmons, N. C. 27012  
Tel: 919/ 766-5286

Professional Staff: Ms. Susan Sabre Tel: 733-6660

Legislative Services Office

Clerical Staff: Mrs. Lillie Pearce Tel: 733-5853

#### DAY CARE

The Legislative Research Commission Study Committee on Day Care met three times in full committee in the Fall of 1984, and twice in subcommittee. The Committee addressed four major issues: the issue of whether or not State day care services needed restructuring in order to improve the delivery of day care to all the citizens and the children of this State in need of day care; the issue of raising day care licensing standards without threatening parents' ability to pay or providers' ability to give care; the issue of guaranteeing children in day care safety from abuse and neglect; and the issue of improving enforcement of day care law.

The Committee unanimously made each of the following recommendations to the 1985 General Assembly.

- (1) That all day care services be consolidated within the Department of Human Resources in a separate Division of Child Day Care Services, with separate assistant division directors in charge of the funding and the field operations, and that necessary funds to implement the consolidation be appropriated;
- (2) That State licensing standards for day care facilities be increased, specifically those regarding staff/child ratio, group size, transportation safety, staff training and development, program requirements, civil rights compliance, equipment requirements, and nutrition requirements;
- (3) That the juvenile law regarding abused and neglected children in day care be revised by broadening the definition of "caretaker" so as to permit the investigation by the county Department of Social Services into more alleged incidents of abuse and neglect in day care than now possible;
- (4) That the county Department of Social Services notify the North Carolina Day Care Licensing Commission whenever it receives a report of abuse or neglect in day care;

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- (5) That the Licensing Commission investigate providers against whom reports of abuse or neglect have been received to discover whether the day care law has indeed been violated;
- (6) That a provisional license be imposed in cases where abuse or neglect that is the responsibility of the provider is substantiated;
- (7) That a regulatory system for day care plans be phased in to guarantee that all children in plans are in a healthy, safe, and sanitary environment;
- (8) That all day care providers give parents notification of all people's duty to report any suspicion of abuse or neglect in day care to the county Department of Social Services;
- (9) That within the Licensing Commission a special unit be established to handle abuse and neglect in day care, and that appropriations be requested to implement this recommendation;
- (10) That the Department of Human Resources, Division of Social Services, the Justice Department, the Department of Administration, Office of Day Care Licensing, and the Department of Human Resources, Office of Day Care Services, report to the 1985 General Assembly on ways to check employees' and providers' abuse and neglect records;
- (11) That the Licensing Commission be made more effective, by the use of an impartial hearing officer or administrative law judge, and by the authority to impose civil penalties and other sanctions, including injunctions on providers that are found to be out of compliance and that willfully remain so, which sanctions may be imposed before the final sanction of license revocation can be;
- (12) That appropriations be requested to enable the Licensing Commission to increase its inspection and monitoring staff to enable them to regulate day care satisfactorily; and
- (13) That the 1985 General Assembly continue its vital study of day care.

The Committee unanimously endorsed legislative proposals to implement these recommendations.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

## HIGHER EDUCATION REGULATION

Authorization: Chapter 905, § 1, and Res. 33, 1983 Session Laws

## Committee Members:

## President Pro Tempore's Appointments

## Speaker's Appointments

Sen. Lura Tally,  
CoChairman  
3100 Tallywood Dr.  
Fayetteville, N. C. 28303  
Tel: 919/ 484-4868

Rep. Betty Dorton Thomas,  
CoChairman  
D-1 Candlewood Square  
Concord, N. C. 28025  
Tel: 704/ 782-0719

Sen. T. Cass Ballenger  
Box 2029  
Hickory, N. C. 28601  
Tel: 704/ 328-2466

Rep. Anne Barnes  
313 Severin St.  
Chapel Hill, N. C. 27514  
Tel: 919/ 967-7610

Sen. Vernon E. White  
P. O. Box 41  
Winterville, N. C. 28590  
Tel: 919/ 756-2920

Rep. Gordon H. Greenwood  
Box 487  
Black Mountain, N. C. 28711  
Tel: 704/ 669-7961

Chancellor E. K. Fretwell, Jr.  
The University of North Carolina  
at Charlotte  
Charlotte, N. C. 28223  
Tel: 704/ 597-2201

Rep. Charles Woodard  
P. O. Box 10273  
Goldsboro, N. C. 27532  
Tel: 919/ 731-2855

Mr. Carl Settle  
Rutledge College, Inc.  
2600 First Union Plaza  
Charlotte, N. C. 28282  
Tel: 704/ 376-6430

Dr. H. F. (Cotten) Robinson,  
Chancellor  
Western Carolina University  
Cullowhee, N. C. 28721  
Tel: 704/ 227-7100

Professional Staff: ds. Susan Sabre Tel: 733-6660  
Legislative Services Office

Clerical Staff: Mrs. Mollie Prescott Tel: 733-5977  
(House Committee Clerks)

## HIGHER EDUCATION REGULATION

The Legislative Research Commission Study Committee on the Regulation of Nonpublic and Public Post-Secondary Educational Institutions met three times. The Committee addressed three major issues: (1) Does regulation of all post-secondary degree-granting education, whether provided by public or proprietary in-state institutions or by out-of-state institutions offering "field-based" in-state education, continue to be needed? (2) What is the best form of regulation, licensing by mandatory governmental agency, or accreditation by a voluntary nongovernmental agency? (3) If licensing is the best form of regulation, is the substance of House Bill 988, introduced in the 1983 General Assembly, First Regular Session, the best form of regulation?

The Committee made four formal findings:

- (1) The need for regulation of nonpublic as well as public post-secondary degree-granting education has grown during recent years.

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- (2) The guarantee of minimal standards that needs to be given by proper regulation must extend to education in this State by out-of-state institutions offering in-state "field-based" education as well as by in-state institutions.
- (3) Mandatory governmental licensing rather than voluntary nongovernmental accreditation is the only process that can produce the required guarantee that institutions are meeting certain necessary minimum standards and are thus providing quality education.
- (4) The substance of House Bill 988 accomplishes the established intent of the General Assembly to provide for licensing of post-secondary degree-granting education not otherwise regulated, and redraws the existing law so as to make the pattern of licensing regulation apply to all such education regardless of the location or the type of institution granting the degree.

The Committee recommended legislation to effect its purpose to the 1983 General Assembly, 1984 Session.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.



III. ENVIRONMENT

## HAZARDOUS SUBSTANCES IDENTIFICATION AND LABELLING

Authorization: Chapter 905, §1, 1983 Session Laws (H 1339)

## Committee Members:

## President Pro Tempore's Appointments

Sen. Ollie Harris,  
Cochairman  
P. O. Box 627  
Kings Mountain, N. C. 28086  
Tel: 704/ 739-2591

Sen. Richard Barnes  
3810 Coral Lane  
Winston-Salem, N. C. 27106  
Tel: 919/ 924-6777

Sen. J. J. Harrington  
P. O. Drawer 519  
Kinston/Woodville, N.C. 27849  
Tel: 919/ 348-2192

Sen. George W. Marion, Jr.  
P. O. Box 618  
Dobson, N. C. 27017  
Tel: 919/ 386-8272

Sen. Russell Walker  
P. O. Box 1831  
Asheboro, N. C. 27203  
Tel: 919/ 625-6177

## Speaker's Appointments

Rep. Harry E. Payne, Jr.,  
Cochairman  
P. O. Box 1147  
Wilmington, N. C. 28402  
Tel: 919/ 762-5505

Rep. David H. Diamont  
P. O. Box 784  
Pilot Mountain, N. C. 27041  
Tel: 919/ 368-4591

Rep. Joe Hackney  
P. O. Box 1329  
Chapel Hill, N. C. 27514  
Tel: 919/ 929-0323

Rep. Josephus L. Mavretic  
Box 1982  
Tarboro, N. C. 27886  
Tel: 919/ 823-0366

Rep. Murray P. Pool  
P. O. Box 779  
Clinton, N. C. 28328  
Tel: 919/ 592-2662

Professional Staff: Mr. Daniel Long Tel: 733-2578  
Legislative Services Office  
Clerical Staff: Mrs. Lillie Pearce Tel: 733-5853

## HAZARDOUS SUBSTANCES IDENTIFICATION AND LABELLING

The Legislative Research Commission's Study Committee on Hazardous Substances Labelling and Identification met five times and a subcommittee to that Committee also met three times. During its deliberations, the Committee focused on the "right-to-know" (RTK) issue. RTK is a term which commonly means that employers in specified categories must compile lists of and information about certain hazardous chemicals in the workplace and make this information available to workers, health and emergency personnel, and sometimes government and the community. Representatives from labor unions and associated bodies, government, industry and trade associations, and environmental

and public interest groups attended the meetings and helped to shape the debate. The major issues considered by the Committee were: (1) Extent of preemption impact of Federal OSHA rules on worker RTK announced in November 1983 which explicitly covered only the chemical and manufacturing workers; (2) Various structures for information access and transmittal; (3) Exemptions from coverage; (4) Scope of coverage; and (5) Appropriate definitions of key terms, most notably "hazardous substance."

In its Interim Report the Committee found that: (1) The problem of hazardous substances in the workplace was significant and growing; (2) there was a significant need to extend coverage into sectors not covered by the federal rules and to provide for community RTK; (3) North Carolina possesses the legal authority to so legislate; and (4) the issue needed more study. Accordingly, the Committee recommended to the 1984 Regular Session the establishment of a Study Commission and suggested legislation directing certain departments to study specified issues and make recommendations.

On September 21, 1984, the Committee unanimously voted to request by letter that the Department of Crime Control and Public Safety study the emergency management aspect of RTK and that the Departments of Labor, Human Resources, and Natural Resources and Community Development study the question of appropriate definition of the term "hazardous substances." These departments reported to the Committee before the November 15, 1984, deadline and their responses appear in the Final Report.

The Final Report reiterated the findings of the Interim Report and made one recommendation--the passage of a comprehensive RTK bill addressing all major issues and extending coverage over most employers.

FULL REPORTS OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

#### WATER-POLLUTION CONTROL

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.R. 232)

#### Committee Members:

President Pro Tempore's Appointments	Speaker's Appointments
--------------------------------------	------------------------

Sen. Russell Walker,  
Cochairman  
P. O. Box 1831  
Asheboro, N. C. 27203  
Tel: 919/ 625-6177

Rep. Charles D. Evans,  
Cochairman  
P. O. Box 189  
Manteo, N. C. 27954  
Tel: 919/ 473-2171

Sen. Julian R. Allsbrook\*

Rep. Joe R. Hudson  
Rt. 3  
Waxhaw, N. C. 28173  
Tel: 704/ 847-9778

Sen. Wanda H. Hunt  
P. O. Box 1335  
Pinehurst, N. C. 28374  
Tel: 919/ 295-3794

Rep. Daniel T. Lilley  
P. O. Box 824  
Kinston, N. C. 28501  
Tel: 919/ 523-4309

Sen. Joseph E. Thomas  
P. O. Box 337  
Vanceboro, N. C. 28586  
Tel: 919/ 346-9721

Rep. Joseph B. Roberts, III  
1432 Laurel Lane  
Gastonia, N. C. 28052  
Tel: 704/ 867-4674

Mr. Thomas W. Bivens  
3837 Arborway  
Charlotte, N. C. 28211  
Tel: 704/ 366-0528

Rep. Betty Dorton Thomas  
D-1 Candlewood Square  
Concord, N. C. 28025  
Tel: 704/ 782-0719

Professional Staff: Mr. Jim Blackburn Tel: 733-2578

Legislative Services Office

Clerical Staff: Mrs. Mack Shuford Tel: 733-5986

#### WATER-POLLUTION CONTROL

The Committee to study the "adequacy of existing water pollution control programs to improve and protect the water quality of the State" met four times prior to the 1984 Session of the 1983 General Assembly, once jointly with the Water-Quality--Haw River and Jordan Reservoir and Water Resources--North Carolina and Virginia Committees, and once (for part of a meeting) jointly with the Haw/Jordan study committee. In its initial sessions, the committee identified six problems which merited immediate attention during the 1984 session of the 1983 General Assembly: (1) The effect of toxic chemicals on North Carolina's surface and groundwater; (2) The problem of nutrients in our waters, particularly phosphates; (3) The problem of sediment entering North Carolina waters, especially agricultural runoff; (4) The need for adequate wastewater treatment by local government utilities; (5) The problem of freshwater runoff and its effect on the biological integrity of productive nursery and fishing areas on our coast; (6) The problem of water quality management, particularly nonpoint sources of water pollution.

Based on its findings, the Committee made the following recommendations in its interim report to the 1984 Session of the 1983 General Assembly:

- (1) An expanded program to control and evaluate toxics, specifically efforts to fund requests from the Department of Natural Resources and Community Development for a toxics control program, expanded analytical and laboratory facilities and an expanded pollution prevention program.

- (2) Implementation of a nutrient sensitive watershed program, specifically including programs for "Best Management Practices," improved regulatory and enforcement programs, and enactment of legislation to limit phosphorus levels in laundry detergents.
- (3) Increased control of sedimentation pollution, specifically enactment of legislation to expand the coverage of the Sedimentation Pollution Control Act and legislation to provide a tax credit for the cost of conservation tillage equipment.
- (4) Expanded efforts, including State assistance, to fund construction of wastewater treatment plants, and legislation to provide for county review of waste discharge permits for private residential/commercial development.
- (5) Implementation of programs to assure balanced utilization of our coastal water resources and to control freshwater runoff.
- (6) Continued and expanded efforts to monitor, manage and protect the State's surface waters and enactment of legislation to improve the effectiveness of North Carolina's Well Construction Act.
- (7) Continuation of the Committee's study, particularly to consider efforts to implement the recommendations of the Commission on the Future of North Carolina, goals and recommendations for the year 2000.

Following the 1984 legislative session, the Committee met on three occasions in the fall of 1984. The Committee identified seven needs, some of which had also been discussed prior to the 1984 Session. These were: (1) Toxics (see above), (2) Sediment (see above), (3) The need to protect the State's groundwaters, (4) Nutrients (see above), (5) The need to protect North Carolina's coastal resources, (6) Wastewater treatment (see above) and (7) The need for planning and participation in joint and matching programs. To meet these needs, the Committee recommended that the 1985 General Assembly appropriate funds to expand a number of programs operated through the Department of Natural Resources and Community Development. The Committee also recommended enactment of the following proposed legislation:

- (1) Legislation to authorize the Environmental Management Commission to protect the waters of the State against pollution from package plants.
- (2) Legislation to amend the State's Well Construction Act to provide for civil as well as criminal penalties.
- (3) Legislation to limit phosphorus levels in laundry detergents.
- (4) Legislation to establish educational programs from sums collected through fines.
- (5) Legislation to continue study of water pollution control programs, issues, and regulations.

FULL REPORTS OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

# WATER QUALITY - HAW RIVER AND JORDAN RESERVOIR

Authorization: Chapter 905, §1, 1983 Session Laws (H. J. R. 1257)

## Committee Members:

### President Pro Tempore's Appointments      Speaker's Appointments

Sen. Russell Walker, Co-Chmn.  
P. O. Box 1831  
Asheboro, N. C. 27203  
Tel: 919/ 625-6177

Rep. Joe Hackney, Co-Chmn.  
P. O. Box 1329  
Chapel Hill, N. C. 27514  
Tel: 919/ 929-0323

Sen. Julian R. Allsbrook\*

Rep. T. Clyde Auman  
Rt. 1, Box 224  
West End, N. C. 27376  
Tel: 919/ 673-4391

Sen. Wanda H. Hunt  
P. O. Box 1335  
Pinehurst, N. C. 28374  
Tel: 919/ 295-3794

Rep. Aaron E. Fussell  
1201 Briar Patch Ln.  
Raleigh, N. C. 27609  
Tel: 919/ 834-7666

Sen. Joseph E. Thomas  
P. O. Box 337  
Vanceboro, N. C. 28586  
Tel: 919/ 346-9721

Rep. William T. Grimsley  
Rt. 3, Box 85-A  
Summerfield, N. C. 27358  
Tel: 919/ 643-3230

Mr. Thomas W. Bivens  
3837 Arborway  
Charlotte, N. C. 28211  
Tel: 704/ 366-0528

Rep. Bertha M. Holt  
P. O. Box 1111  
Burlington, N. C. 27215  
Tel: 919/ 227-7333

Professional Staff: Mr. Daniel Long      Tel: 733-2578  
Legislative Services Office

Clerical Staff: Mrs. Lillie Pearce      Tel: 733-5853

## WATER QUALITY-HAW RIVER AND JORDAN RESERVOIR

The Legislative Research Commission's Study Committee on Water Quality in the Haw River and Jordan Reservoir met six times. It has issued an interim report and a final report.

Along with other water quality committees, the Committee heard extensive testimony from the Department of Natural Resources and Community Development (NRCD) concerning specific environmental problems and the steps being taken or contemplated to correct them. The Committee also heard from a range of academicians,

scientists, government personnel, and public interest groups. The Committee focused on the following issues: (1) Toxic chemical pollution; (2) Nutrient enrichment (including the phosphate question); (3) Sedimentation; (4) Watershed Protection Planning; and (5) Regulatory reform.

In its Interim Report the Committee recommended a Clean Detergent bill, a Regulatory Flexibility bill, and an expanded anti-dumping statute for toxic substances. It supported NRCD's water related appropriations requests and suggested a continuation of the Study with additional funds.

In its Final Report the Committee made the following findings and recommendations:

Finding 1: The problem of toxic substances in the water is serious and growing. Recommendations: (1) Continuation and expansion of funding for toxics monitoring; (2) Initiation of a program of technical assistance to assist the private sector in detecting and reducing toxics; (3) Consideration of a requirement that industries compile inventories of hazardous chemicals which would be made available to regulators and (4) Reiteration of support for the Regulatory Flexibility bill.

Finding 2: Watershed protection planning is essential to the solution of the toxics and other pollution problems. Recommendations: (5) State funding for the Triangle J Water Resources Program and to begin a Piedmont Triad Water Resources Program; (6) Exploration of the option of minimum state standards for water quality protection and the establishment of water quality critical areas should local and voluntary efforts be insufficient, and (7) Consideration of the desirability of setting up an advisory committee on the Haw River and Jordan Reservoir.

Finding 3: The problem of nutrient-loading remains acute. Recommendations: (8) Passage of the Clean Detergent Bill and (9) Expansion of the Nutrient Sensitive Watershed Program.

Finding 4: The problem of financing water and wastewater facilities in this State needs urgent attention. Recommendation: An aggressive search for solutions to water and sewer capital needs in the 1985 Session.

Finding 5. It is essential to keep up the momentum for creative solutions to water quality problems. Recommendation: Reauthorization of this Study.

FULL REPORTS OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

WATER RESOURCES - NORTH CAROLINA AND VIRGINIA

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.R. 1404)

Committee Members:

President Pro Tempore's Appointments

Sen. Russell Walker,  
Cochairman  
P. O. Box 1831  
Asheboro, N. C. 27203  
Tel: 919/ 625-6177

Sen. Julian R. Allsbrook\*

Sen. Wanda H. Hunt  
P. O. Box 1335  
Pinehurst, N. C. 28374  
Tel: 919/ 295-3794

Sen. Joseph E. Thomas  
P. O. Box 337  
Vanceboro, N. C. 28586  
Tel: 919/ 346-9721

Mr. Thomas W. Bivens  
3837 Arborway  
Charlotte, N. C. 28211  
Tel: 704/ 366-0528

Professional Staff: Ms. Sarah Fuerst Tel: 733-6660  
Legislative Services Office  
Clerical Staff: Mrs. Mary Whiting Tel: 733-5977

Speaker's Appointments

Rep. Henry M. Tyson,  
Cochairman  
Rt. 7, Box 284  
Fayetteville, N. C. 28306  
Tel: 919/ 483-2903

Rep. John T. Church  
420 Woodland Rd.  
Henderson, N. C. 27536  
Tel: 919/ 438-5368

Rep. H. Parks Helms  
4901 Hadrian Way  
Charlotte, N. C. 28211  
Tel: 704/ 366-9509

Rep. Vernon G. James  
Rt. 4  
Elizabeth City, N. C. 27909  
Tel: 919/ 330-4394

Rep. Robie L. Nash  
232 Richmond Rd.  
Salisbury, N. C. 28144  
Tel: 704/ 633-3430

WATER RESOURCES--NORTH CAROLINA AND VIRGINIA

The Committee on Water Resources--North Carolina and Virginia met one time. It considered the water quality and quantity disputes between the States of North Carolina and Virginia.

The major concern of the Committee is the Lake Gaston Pipeline Project, a project proposed by Virginia Beach to divert water from the Roanoke River Basin. The pipeline would be designed to carry about 60 million gallons of water a day which it would pick up from a part of Lake Gaston located in Virginia. The Committee objects strenuously to the proposed pipeline and supports North Carolina's efforts to block it in the courts.

The Committee feels that no action by the General Assembly would be necessary or appropriate at this stage of the litigation over the proposed pipeline. This Committee did not report.





IV. FINANCE

## BANKS, SAVINGS &amp; LOANS

Authorization: Chapter 905, §1, (S.J.R. 381) and Chapter 1113  
1983 Session Laws

## Committee Members:

President Pro Tempore's Appointments	Speaker's Appointments
Sen. James H. Edwards, Cochairman P. O. Box 524 Granite Falls, N. C. 28630 Tel: 704/ 328-6405	Rep. Edward N. Warren, Cochairman 227 Country Club Dr. Greenville, N. C. 27834 Tel: 919/ 756-2671
Sen. Dallas L. Alford, Jr. P. O. Drawer 229 Rocky Mount, N. C. 27801 Tel: 919/ 442-4696	Rep. Harold J. Brubaker 138 Scarboro St. Asheboro, N. C. 27203 Tel: 919/ 629-5128
Sen. Harold W. Hardison P. O. Box 128 Deep Run, N. C. 28525 Tel: 919/ 568-3131	Rep. Charles D. Evans P. O. Box 189 Manteo, N. C. 27954 Tel: 919/ 473-2171
Sen. Joseph E. Johnson P. O. Box 750 Raleigh, N. C. 27602 Tel: 919/ 833-9789	Rep. John Hasty P. O. Box 338 1181 W. Saunders St. Maxton, N. C. 28364 Tel: 919/ 844-5257
Sen. Kenneth C. Royall, Jr. P. O. Box 8766 Forest Hills Sta. Durham, N. C. 27707 Tel: 919/ 489-9191	Rep. Wendell Murphy Rt. 1, Box 76E Rose Hill, N. C. 28458 Tel: 919/ 289-2970
Professional Staff: Mr. Terrence D. Sullivan Tel: 733-2578 Legislative Services Office	
Clerical Staff: Mrs. Jerry Batchelor Tel: 733-5649 (Senate Committee Clerks)	

## BANKS, SAVINGS AND LOANS

The Committee on the Taxation and Regulation of Banks, Savings and Loan Associations and Credit Unions (hereafter "Committee") held three meetings prior to the 1984 Session. All federally- and state-chartered banks, federally- and state-chartered savings and loan associations, state-chartered credit unions, concerned state regulators, the chairman of the Securities and Exchange Commission, and national representatives of the securities

industry, among others, were notified of the Committee's meetings.

At its first two meetings, the Committee invited and heard from thirteen representatives of state regulatory agencies and the financial industry on the areas they felt the Committee should and should not address in its study.

Mr. John R. Jordan, Jr., Legislative Counsel to the North Carolina Bankers' Association, presented a draft of a bill and analysis to permit interstate regional banking in this state on a reciprocal basis. This bill would not affect savings and loan associations. Mr. Jordan informed the Committee that 17 states have similar legislation. Mr. Jordan said that the proposed bill is enabling legislation allowing North Carolina bank holding companies to acquire banks in another state in the Southeastern region or for bank holding companies in another state in the Southeastern region to acquire banks in North Carolina. The Committee directed its staff to poll all banks in this State as to each's position on the legislation to permit interstate regional reciprocal banking.

The Committee directed its co-chairmen to appoint a subcommittee to investigate Mr. Jordan's proposed bill and report back at the Committee's next meeting.

The Subcommittee met twice. Mr. James S. Currie, the Commissioner of Banks, upon request of the co-chairmen of the Subcommittee, presented to the Subcommittee a history of bank holding company legislation in this country and a draft of a bill dealing with bank holding company regulation. After a review of the proposed bank holding company legislation, the Subcommittee decided to include portions of it in the Interstate Banking Bill and suggested that no further action be considered in the Short Session of the General Assembly concerning bank holding company legislation.

The Committee's staff distributed a memorandum on the results of the survey of the position that banks operating in this State take with regard to interstate regional reciprocal banking. Of the 71 banks operating in North Carolina, 34 (or 47.9%) banks had responded. Of those responding 23 (or 67.6%) were in favor of the legislation, 10 (or 29.4 %) were opposed to the legislation and 1 (2.9%) took no position.

The interstate regional reciprocal banking legislation has an effective date of January 1, 1985. Representatives of the thrift industry indicated that most economists predict interest rate levels by that time to have risen significantly. Because the greatest proportion of the assets of North Carolina's savings institutions is comprised of long term fixed rate mortgages, the thrift industry, as a whole, is much more sensitive to interest rate swings than are commercial banks. Next year's higher interest rates could have such a negative impact on the earnings of the thrift industry as to make its institutions vulnerable to hostile takeovers but unable to enjoy the benefits of the new law through acquisitions in other states. If such a scenario were to develop, little good would have been accomplished for the

citizens of this state by authorizing regional reciprocal interstate activities for thrifts.

Representatives of the thrift industry attempted to assess the need for similar legislation for thrift institutions during the Committee's period of deliberations, but were unable to reach a consensus by the date required by law for formulation of the Committee's recommendations.

Mr. Gordon Allen, representing the North Carolina League of Savings Institutions, appeared before the Committee concerning the need for lenders to be able to charge late fees on consumer loans. Savings and loan associations have begun to make consumer loans only recently and during the time of the Committee's deliberations discovered that many officials interpret Chapter 24 as prohibiting late charges on these loans. The Consumer Finance Act, in G.S. 53-175, authorizes small loan companies to make a one-time, five percent (5%) charge for a late payment. Mr. Allen proposed authorization of a similar fee for consumer loans under Chapter 24. In reviewing this matter, the Committee noted that several portions of G.S. 24-10 appeared to be inconsistent.

#### Recommendations to the 1984 Session

The Committee on the Taxation and Regulation of Banks, Savings and Loan Associations and Credit Unions recommended that the 1984 Regular Session of the 1983 General Assembly enact legislation:

1. To permit acquisition, on a reciprocal basis, of North Carolina banks and bank holding companies by bank holding companies principally located in other states in the Southeastern region of the United States, subject to the supervision and regulation of the North Carolina Commissioner of Banks. That bill was introduced in the 1984 Regular Session and amended to require the registration of bank holding companies in North Carolina. The bill was ratified as Chapter 1113 of the 1983 Session Laws (Regular Session, 1984).
2. To authorize regional reciprocal interstate activities for thrift institutions on the same basis as that recommended for commercial banks, and effective at the same time, if, and only if, the thrift industry reaches a consensus that economic conditions at that time will permit the industry to utilize the authority granted. Chapter 1087 of the 1983 Session Laws (Regular Session, 1984) was enacted to provide the recommended statutory framework.
3. Amending G.S. 24-10 to authorize assessment if late charges not exceeding five percent (5%) on consumer loans as provided in the legislative proposal contained in this report; and to review the provisions of G.S. 24-10 generally. This proposal was introduced in the 1984 Regular Session but was not ratified.

Recommendations to the 1985 Session

During the later part of 1984 the Committee returned its attention to the general issue of the regulation and taxation of financial institutions within the State. Specifically the Committee investigated the need for State regulation of asset management accounts, alleged inequitable tax treatment of the different types of the financial institutions operating in the State, and further regulation of bank holding companies. The Committee made the following findings and recommended the following actions to the 1985 General Assembly:

1. Intangibles Tax  
A. Findings

(1) The public policy of the State is to reduce its citizens' tax burden, insofar as possible, but not so as to endanger providing needed public services. (2) The costs and difficulties of collecting the intangible tax on money on deposit and money on hand are an onerous and costly imposition by the State on banks and other corporations. (3) Money on deposit in banks is subject to the intangibles tax whereas money on deposit in credit unions and savings and loan associations is not. Banks are therefor at a comparative disadvantage with the State's other financial institutions in attracting and retaining depositors. (4) The intangibles tax on funds on deposit with insurance companies (G.S. 105-205) produces little tax and like the tax on money on deposit is returned to the local governments on the basis of population. (5) North Carolina's intangibles tax places this State at a comparative disadvantage with other states not imposing this tax in attracting new industry and those individuals dependent on earnings from invested income. (6) The repeal of the taxes on these types of intangible personal property would lead to increased economic growth, immigration of retirees to North Carolina, and for certain individuals who maintain residences in North Carolina and other states, the establishment of their official residence in North Carolina.

B. Recommendations

(1) That legislation be enacted to repeal the intangibles tax on money on deposit (G.S. 105-199 and G.S. 105-205), and money on hand (G.S. 105-200), effective for tax years beginning on or after January 1, 1985. (2) That the 1985 General Assembly coordinate the replacement of revenue loss to local governments resulting from the recommended repeal of tax on these types of intangible personal property.

2. Regulation of Bank Holding Companies  
A. Findings

(1) The financial services industry is undergoing rapid and sweeping change both in North Carolina and nationally. (2) A

need exists for the State of North Carolina to be aware of and involved in the continuing development of the financial services industry operating within her borders and affecting the economic well-being of her citizens. (3) Under the legislation enacted by the 1984 General Assembly relating to interstate regional reciprocal banking and registration of bank holding companies, North Carolina state regulators do not have the authority for a continuing supervision of regional out-of-state bank holding companies acquiring North Carolina banks or bank holding companies while other Southeastern states have been given that authority to their regulators with respect to North Carolina bank holding companies acquiring their in-state banks or bank holding companies. (4) The state bank regulators of North Carolina need the continuing supervisory and examination authority over bank holding companies afforded other Southeastern states' bank regulators to assure the continuing viability of North Carolina banking and to cooperate with other states' bank regulators in an efficient and effective administration of the interstate regional reciprocal banking legislation.

#### B. Recommendation

That the House and Senate Banking Committees of the 1985 General Assembly study the enactment of legislation to vest in the Commissioner of Banks power to regulate bank holding companies, to approve acquisitions of North Carolina banks by all bank holding companies operating in this State; and to examine and require reports of those bank holding companies.

FULL REPORTS OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

#### BIOTECHNOLOGY

Authorization: Chapter 905, §1, and Chapter 899, 1983 Session Laws (H.J.R. 1282, S 534, S.J.R. 620)

#### Committee Members:

##### President Pro Tempore's Appointments

Sen. William G. Hancock, Jr.,  
Cochairman  
P. O. Box 586  
Durham, N. C. 27702  
Tel: 919/ 682-5691

Sen. Robert M. Davis, Sr.  
215 N. Main St.

##### Speaker's Appointments

Rep. Bobby R. Etheridge,  
Cochairman  
1304 8th St.  
Lillington, N. C. 27546  
Tel: 919/ 893-4108

Rep. Sam Beam  
513 Delview Rd.

# FINANCE

Salisbury, N. C. 28144  
Tel: 704/ 636-2181

Sen. Charles W. Hipps  
Suite 305  
505 N. Main St.  
Waynesville, N. C. 28786  
Tel: 704/ 452-2866

Sen. Robert B. Jordan, III  
100 Industry Ave.  
Mt. Gilead, N. C. 27306  
Tel: 919/ 439-6121

Sen. Kenneth C. Royall, Jr.  
P. O. Box 8766  
Forest Hills Sta.  
Durham, N. C. 27707  
Tel: 919/ 489-9191

Dr. Wendell Allen  
Department of Biology  
E. Carolina University  
Greenville, N. C. 27834  
Tel: 919/ 757-6718

Dr. Roy E. Morse, Sr.  
Vice President, Research &  
Development  
R. J. Reynolds Tobacco Co.  
Winston-Salem, N. C. 27102  
Tel: 919/ 777-5000

Mr. William J. Veeder, President  
Greater Chamber of Commerce  
129 Trade St.  
P. O. Box 32785  
Charlotte, N. C. 28232  
Tel: 704/ 377-6911

Professional Staff: Mr. Steven Rose Tel: 733-2578

Legislative Services Office

Clerical Staff: Mrs. Jerry Batchelor Tel: 733-5649

(Senate Committee Clerks)

Cherryville, N. C. 28021  
Tel: 704/ 435-2862

Rep. Marie Colton  
392 Charlotte St.  
Asheville, N. C. 28801  
Tel: 704/ 252-1816

Rep. John J. Hunt  
Box 277  
Lattimore, N. C. 28089  
Tel: 704/ 434-6853

Rep. J. P. Huskins  
P. O. Box 1071  
Statesville, N. C. 28677  
Tel: 704/ 873-1451

Mr. Charlie Carpenter  
Vice President, United  
Carolina Bank  
107 West Broad  
Dunn, N. C. 28334  
Tel: 919/ 892-2131

Mr. James E. Gapinski  
Route 2, Jeffress Road  
Fletcher, N. C. 28732  
Tel: 704/ 891-4116

Tel: 919/ 737-2117

Dr. Frank Hart  
Chief Research Officer  
N. C. State University  
208 Daniels Hall  
Raleigh, N. C. 27650  
Tel: 919/ 737-2117

## BIOTECHNOLOGY

The Legislative Research Commission's Biotechnology Study Committee met nine times. It made an interim report to the 1984 Legislative Session and a final report to the 1985 Session. It heard from a wide variety of witnesses concerned with biotechnology research and development, including representatives of the state's public and private universities, representatives

of various industries concerned with biotechnology, representatives of various state departments and agencies such as the Department of Commerce, the Department of Agriculture, and the North Carolina Biotechnology Center. It also appointed an Economic Advisory Panel whose members were professors of business at three of the state's universities, a principal of an investment banking firm in the state, an economist and commercial banker with one of the state's largest banks, and the chief executive officer of a large business enterprise headquartered in the state. The purpose of this panel was to assist the study committee in determining whether or not there would be sufficient economic returns to justify a comprehensive state funded program for biotechnology development, how best to accomplish such a development program, and how the economic benefits could be spread across the entire state.

The committee received information on, and between its two reports addressed each of the matters it was charged with reviewing. These include the projections that biotechnology will have a pervasive impact on various industries, as well as other areas which include agriculture, forestry, marine biology and aquaculture, pharmaceuticals, chemicals, medical care, and pollution control; the steps being taken by other states to strengthen their positions in biotechnology; the present status and further plans for biotechnology programs in the state's universities, the North Carolina Biotechnology Center, the Department of Commerce, and the state's business community; the federal guidelines for safe conduct of research; and, "the short term and long term needs for North Carolina to be at the forefront of technological and economic developments in the rapidly advancing field of biotechnology."

#### Interim Findings

In its interim report to the 1984 Legislative Session, the study committee found that the projections indicating the pervasive impact of biotechnology are accurate; that other states have undertaken biotechnology development programs but that the field is still open and that North Carolina currently has a very competitive position and could capitalize on it if it desires to do so; that the state's universities are already involved in biotechnology programs and that they are interacting with each other; that the North Carolina Biotechnology Center is functioning actively; and, the Department of Commerce has already begun promoting the state as a biotechnology center. The committee found that there were short term needs to allow the state to retain its competitive position and to assist the state's universities in maintaining their leadership in this field.

#### Interim Recommendations

The study committee's interim recommendations were made with a view toward a final report to the 1985 Legislative Session. The short term recommendations included:

I. A nonreverting reserve of \$2,960,000 for the University of North Carolina to assist in hiring four world-class scientists or engineers, together with additional younger, but excellent, professors in these fields. These funds would also be used for support of post doctoral and graduate fellows and for startup research funds and laboratory setup costs. \$910,000 was appropriated in the Short Session.

II. A nonreverting reserve of \$4,500,000 for the University of North Carolina for capital improvements associated with Recommendation I. \$2,045,000 was appropriated in the Short Session.

III. That funding for the North Carolina Biotechnology Center be increased by \$1,965,000. \$1,000,000 was appropriated in the Short Session.

IV. That funding for the Technological Development Authority be increased by \$575,000. \$680,000 was appropriated in the Short Session.

#### Findings of the Final Report

In its report to the 1985 General Assembly, the study committee expressed an even stronger belief that biotechnology will have a pervasive economic impact in various commercial and agricultural areas, as well as positive effects on human health and the environment. It found that a carefully planned major state effort could bring substantial benefits to every area of the state through industrial expansion, increased employment, and increased agricultural productivity. Such an effort would also maintain and improve the academic excellence of the universities and colleges. Competition from other states necessitates immediate action on the part of our state to maintain its competitive edge and achieve national leadership. A successful development program must include targeted economic development and strong support for our academic institutions. Targeted development includes efforts in applied technology, agriculture, forestry, and other commercial activities related to North Carolina problems and opportunities. There must also be a means to disseminate biotechnology advances and to spread economic development across the state. Regarding controls on research and development, the committee found that the federal government is presently involved in a comprehensive multi-agency review of the federal regulatory structure as it applies to biotechnology and should produce a plan for comprehensive regulation around January, 1985. If the results of that review are satisfactory, the committee feels that an additional layer of regulation placed on biotechnology by the state would not be advisable.

#### Final Recommendations for the 1985 General Assembly

The study committee recommended that a program addressing the long term needs of the state for biotechnology development include components to significantly strengthen the University of North Carolina, the North Carolina Biotechnology Center, and through the Biotechnology Center, the private colleges and universities. There are also recommendations to strengthen the



Department of Commerce and the Agricultural Extension Service in this area, and that the state participate in the construction and operation of bioprocess engineering facilities. The entire program would cover a five year period with a total state investment of \$70.085 million. The cost for FY 1985-86 would be \$18.949 million and for FY 1986-87, \$21.286 million. These recommendations include:

I. Funding for the North Carolina Biotechnology Center to carry on and expand its programs and to become the agency to coordinate the targeting of biotechnology development focused on North Carolina's problems and activities. The Center's budget would be increased by \$4.8 million per year over the five year period.

II. Funding for the North Carolina Biotechnology Center to construct facilities in which to carry on its programs. This includes state funds of \$1.12 million which must be matched by an equal amount from nonstate sources.

III. Funding for the University of North Carolina system representing an increase of \$4.8 million per year over the five year period. These funds would be held in a nonreverting reserve to be used to establish a world-class program in biotechnology research and teaching, the focus being on the recruitment of world-class scientists and engineers, supported by younger excellent researchers.

IV. A nonreverting reserve of \$17.155 million for the University of North Carolina to be used to provide space for the new programs. This amount would be evenly split between fiscal years 1985-86 and 1986-87.

V. If justified by a study now being conducted by the North Carolina Biotechnology Center, an appropriation of up to \$2.66 million for the construction of bioprocess engineering facilities, provided that twice that amount is obtained in nonstate funds. Funding for FY 1985-86 would be \$.66 million, with the balance of these state funds, \$2 million being budgeted for FY 1986-87. The plan also includes up to \$.25 million per year of state funds for operation of facilities. This would be about 25 percent (25%) of operating costs.

VI. Increased funding for the Department of Commerce amounting to \$50,000 per year beginning in FY 1986-87 for targeted promotion of the state as a biotechnology center, including recruitment of new industries and promotion of biotechnology among existing commercial entities in the state.

VII. Increased funding for the Agricultural Extension Service amounting to \$50,000 per year beginning in FY 1986-87 to be used to educate farmers about biotechnology and to speed dissemination of biotechnology-related developments as they become available.

VIII. A comprehensive system of accountability for all recipients of state funds in this proposal, including the University of North Carolina, North Carolina Biotechnology Center and its grant recipients, the Department of Agriculture, and the Department of Commerce.

IX. The study committee recommended specific legislation incorporating its proposals applicable to the 1985-87 biennium, and legislation to continue the study of biotechnology during the next biennium.

The table which follows illustrates the proposed state expenditures for the five years of the development program:  
Biotechnology Program

## New State Funds Over 5 Years

	(millions)					5 yr.
FY	85-86	86-87	87-88	88-89	89-90	Total
<b>UNC System</b>						
People and related items	4.80	4.80	4.80	4.80	4.80	24.00
Construction of facilities	<u>8.577</u>	<u>8.578</u>	<u>4.80</u>	<u>4.80</u>	<u>4.80</u>	<u>17.155</u>
Total	13.377	13.378	4.80	4.80	4.80	41.155
<b>NCBC</b>						
All activities and administration	4.80	4.80	4.80	4.80	4.80	24.00
Construction of facilities	<u>1.112</u>	<u>1.008</u>	<u>4.80</u>	<u>4.80</u>	<u>4.80</u>	<u>1.12</u>
Total	4.912	5.808	4.80	4.80	4.80	25.12
<b>Bioprocess Engineering</b>						
Facilities						
Construction and equipment	.66	2.00				2.66
Operation	<u>---</u>	<u>---</u>	<u>.25</u>	<u>.25</u>	<u>.25</u>	<u>.75</u>
Total	.66	2.00	.25	.25	.25	3.41
Dept. of Commerce		.05	.05	.05	.05	.20
Ag. Ext. Serv.		<u>.05</u>	<u>.05</u>	<u>.05</u>	<u>.05</u>	<u>.20</u>
Total	0.00	.10	.10	.10	.10	.40
Grand Total	18.949	21.286	9.95	9.95	9.95	70.085

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V. GOVERNMENT

## CITY &amp; TOWN INCORPORATION

Authorization: Chapter 905, §1, 1983 Session Laws (S.J.R. 445)

## Committee Members:

## President Pro Tempore's Appointments

Sen. Aaron W. Plyler,  
Cochairman  
2170 Concord Ave.  
Monroe, N. C. 28110  
Tel: 704/ 289-3541  
283-1283

Sen. James H. Edwards  
P. O. Box 524  
Granite Falls, N. C. 28630  
Tel: 704/ 328-6405

Sen. A. D. Guy  
511 New Eridge St.  
Jacksonville, N. C. 28540  
Tel: 919/ 346-4171

Sen. Donald R. Kincaid  
P. O. Box 988  
Lenoir, N. C. 28645  
Tel: 704/ 758-5181

Commissioner M. Edmund Aycock  
352 Transylvania Ave.  
Raleigh, N. C. 27609  
Tel: 919/ 787-3389

Professional Staff: Mr. Gerry F. Cohen Tel: 733-6660

Legislative Services Office

Clerical Staff: Mrs. Ellen Johns Tel: 733-5703

## Speaker's Appointments

Rep. Gordon H. Greenwood,  
Cochairman  
Box 487  
Black Mountain, N. C. 28711  
Tel: 704/ 669-7961

Rep. R. D. Beard  
Box 53607  
Fayetteville, N. C. 28305  
Tel: 919/ 484-4131

Rep. Ray C. Fletcher  
P. O. Box 68  
Valdese, N. C. 28690  
Tel: 704/ 874-0701

Rep. Robert C. Hunter  
P. O. Box 1330  
Marion, N. C. 28752  
Tel: 704/ 652-2844

Rep. Mary L. Jarrell  
1010 Wickliff Ave.  
High Point, N. C. 27262  
Tel: 919/ 883-1276

## CITY &amp; TOWN INCORPORATION

The Committee on Municipal Incorporation held one meeting and reviewed the history of municipal incorporation procedures.

The Committee directed staff to present proposed options about new incorporation procedures, and directed staff to write to the affected counties concerning the status of 42 inactive towns.

The Committee, however, made no report to the 1984 or 1985 Session. The cochairmen do suggest that the study be reauthorized to report to the next Session.

LEGISLATIVE COMMUNICATIONS CONFIDENTIALITY

Authorization: Chapter 905, §1, 1983 Session Laws (H.R. 1461)

Committee Members:

President Pro Tempore's Appointments

Sen. William W. Staton, Co-Chmn.  
205 Courtland Dr.  
Sanford, N. C. 27330  
Tel: 919/ 775-5616

Sen. Rachel Gray  
612 Gatewood Ave.  
High Point, N. C. 27260  
Tel: 919/ 887-1054

Sen. Anthony E. Rand  
P. O. Box 1239  
Fayetteville, N. C. 28302  
Tel: 919/ 483-2101

Sen. Marshall A. Rauch  
Box 609  
Gastonia, N. C. 28052  
Tel: 704/ 867-5000

Sen. Robert S. Swain  
Northwestern Bank Bldg.  
Asheville, N. C. 28801  
Tel: 704/ 255-7703

Speaker's Appointments

Rep. Narvel Jim Crawford  
15 Edgemont Rd.  
Asheville, N. C. 28801  
Tel: 704/ 252-6972

Rep. James W. Crawford, Jr.  
509 College St.  
Oxford, N. C. 27565  
Tel: 919/ 963-6119

Rep. J. P. Huskins  
P. O. Box 1071  
Statesville, N. C. 28677  
Tel: 704/ 873-1451

Rep. Annie Brown Kennedy  
3727 Spaulding Dr.  
Winston-Salem, N. C. 27105  
Tel: 919/ 723-0007

Rep. George W. Miller, Jr.  
200 Wachovia Bank Bldg.  
P. O. Box 451  
Durham, N. C. 27702  
Tel: 919/ 682-5747

Professional Staff: Mr. Terrence D. Sullivan Tel: 733-2578  
Legislative Services Office

Clerical Staff: Mrs. Ellen Johns Tel: 733-5703

LEGISLATIVE COMMUNICATIONS CONFIDENTIALITY

The Committee on the Confidentiality of Legislative Communications met twice. At its first meeting the Committee reviewed the provisions of Chapter 900 of the 1983 Session Laws (1983 Session), entitled AN ACT TO PROVIDE CONFIDENTIALITY IN LEGISLATIVE COMMUNICATIONS, codified as Article 17 of Chapter 120 of the General Statutes and the policy reasons for that act. The Committee instructed its staff to send out a survey to all North Carolina State Legislators and all legislative staff asking, among other matters, whether the individuals had encountered any difficulties because of the Act, the individuals to specify the difficulties encountered, whether the Act should be amended and, if so, in what way.

At its second meeting, the Committee reviewed the results of the survey. The responses to the survey, in brief, indicated

that the vast majority of both legislators and staff had no difficulties with the Act. Although a majority of both believed the Act should not be amended, some responses indicated technical nonsubstantive ambiguities and omissions in the Act. The Committee also discussed drafts of legislation unidentified by the requesting legislator being produced by staff of the Legislative Services Office.

The Committee therefore recommended in its final report to the 1984 Regular Session of the General Assembly that:

- (1) The General Assembly should not presently make substantive revisions to the Act to Provide Confidentiality in Legislative Communications.
- (2) The technical, nonsubstantive ambiguities in the Act should be clarified by legislation which will achieve the original intent of the legislature in passing the Act. The Committee attached to its report a bill to accomplish this action, which bill was enacted as Chapter 1038 of the 1983 General Assembly (Regular Session 1984).
- (3) The Legislative Services Commission should investigate the advisability of requiring all bill drafts prepared by employees of the Legislative Services Office to contain the name of the legislator requesting the bill and, if deemed advisable, to adopt a rule requiring all bill drafts to be so identified.

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#### WOMEN'S NEEDS

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.R. 904, S.J.R. 329)

#### Committee Members:

President Pro Tempore's Appointments	Speaker's Appointments
Sen. Helen Rhyne Marvin, Cochairman 119 Ridge Lane Gastonia, N. C. 28052 Tel: 704/ 864-2757	Rep. Euth M. Easterling, Cochairman 811 Bromley Rd., Apt. 1 Charlotte, N. C. 28207 Tel: 704/ 375-5934
Sen. Rachel Gray 612 Gatewood Ave. High Point, N. C. 27260	Rep. H. Parks Helms 4901 Hadrian Way Charlotte, N. C. 28211

Tel: 919/ 887-1054

Tel: 704/ 366-9509

Sen. William G. Hancock, Jr.  
P. O. Box 586  
Durham, N. C. 27702  
Tel: 919/ 682-5691

Rep. Mary L. Jarrell  
1010 Wickliff Ave.  
High Point, N.C. 27262  
Tel: 919/ 883-1276

Sen. Lura Tally  
3100 Tallywood Dr.  
Fayetteville, N. C. 28303  
Tel: 919/ 484-4868

Rep. Walter B. Jones, Jr.  
P. O. Box 668  
Farmville, N. C. 27828  
Tel: 919/ 753-2549

Mrs. Alice W. Gatsis  
1712 LaFayette Circle  
Rocky Mount, N. C. 27801  
Tel: 919/ 446-5740

Mrs. Nancy Jones  
8 S. Broadway St.  
Forest City, N. C. 28043  
Tel: 704/ 245-4223

Professional Staff: Ms. E. Ann Christian Tel: 733-6660  
Legislative Services Office

Clerical Staff: Mrs. Sue Robertson Tel: 733-5649  
(Senate Committee Clerks)

#### WOMEN'S NEEDS

The Legislative Research Commission's Study Committee on the Economic, Social and Legal Problems and Needs of Women of North Carolina met three times prior to the 1983 Regular Session of the 1984 General Assembly and issued an interim report to that session. The Committee met two times following its interim report to the 1984 Session. The Committee focused on problems arising primarily from the economic status of women and their children. The Committee's findings are set out as follows:

- (1) women are a growing portion of the poverty class;
- (2) the "wage gap" between men and women has grown slightly over the last forty years;
- (3) the wage gap is not only caused by unequal access to jobs and the failure to pay women equal pay for equal work but also by valuing women's work of comparable worth less than men's;
- (4) as women are frequently becoming the breadwinners it becomes more imperative that they be assisted to learn skills for employment at a higher salary;
- (5) child support received by the family is often inadequate;
- (6) women often do not use the courts to obtain child support because they are ignorant of the process, intimidated by their present or former spouse, or do not have the means to hire a lawyer to insure payment;
- (7) child support collection costs are less than the burden taxpayers assume to support many single-parent households;

- (8) it is necessary to provide more adequately for children to insure a better future for them in North Carolina;
- (9) North Carolina's Aid to Families with Dependent Children (AFDC) is inadequate;
- (10) discrimination exists in life, health, disability, and property, auto and liability insurance;
- (11) of the last \$500 million of business done by the State of North Carolina, only one percent (1%) was done by women/minority business enterprises;
- (12) women have special needs for health services and sex education and counseling which are not being met; and
- (13) the Committee's continuing support of passage and ratification of the Equal Rights Amendment to the U.S. Constitution is the most appropriate approach to address the economic, social and legal problems and needs of women in North Carolina.

The Committee's recommendations include:

- (1) support for increased funding of AFDC payments as well as funding at the current level of the Council on the Status of Women;
- (2) use of Job Training Partnership Act funds to train women for jobs;
- (3) sufficient spousal and child abuse program funding;
- (4) funding to the extent feasible of the North Carolina Office of State Personnel's development of work options;
- (5) tracking the federal child support laws to insure payment of child support in all cases;
- (6) introduction of legislation to insure health insurance continuation and conversion coverage at group rates for surviving, separated, and divorced spouses;
- (7) proposed legislation to limit modification of child support arrearages to those arrearages accruing subsequent to a motion to modify support, to authorize the Legislative Research Commission to study sex discrimination in insurance, to authorize local government to implement and comply with women's or minority business enterprise requirements for locally-funded projects, to allow certain beneficiaries to pay inheritance tax on a closely-held business in installments, and to fund programs to aid victims of spouse abuse.

Realizing that many more topics require study, the Committee recommended that the 1985 General Assembly authorize the Legislative Research Commission to continue to study the needs of women.

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VI. HUMAN RESOURCES

AGING:

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.R. 44,  
S.J.R. 16)

Committee Members:

President Pro Tempore's Appointments

Sen. Rachel Gray,  
Cochairman  
612 Gatewood Ave.  
High Point, N. C. 27260  
Tel: 919/ 887-1054

Sen. Ollie Harris  
P. O. Box 627  
Kings Mountain, N. C. 28086  
Tel: 704/ 739-2591

Sen. Russell Walker  
P. O. Box 1831  
Asheboro, N. C. 27203  
Tel: 919/ 625-6177

Sen. Marvin Ward  
641 Yorkshire Rd.  
Winston-Salem, N. C. 27106  
Tel: 919/ 724-9104

Dr. Monroe T. Gilmour  
163 Charlottetown Center  
1300 Baxter St.  
Charlotte, N. C. 28204  
Tel: 704/ 375-0287

Speaker's Appointments

Rep. Gus Economos,  
Cochairman  
2400 Dalesford Dr.  
Charlotte, N. C. 28205  
Tel: 704/ 537-5977

Rep. Sidney A. Locks  
P. O. Box 290  
1600 Fairmont Rd.  
Lumberton, N. C. 28358  
Tel: 919/ 739-7202

Rep. D. B. Mauney, Jr.  
P. O. Box 605  
Cherryville, N. C. 28021  
Tel: 704/ 435-9271

Rep. Henry M. Tyson  
Rt. 7, Box 284  
Fayetteville, N. C. 28306  
Tel: 919/ 483-2903

Rep. Barney P. Woodard  
Box 5  
Princeton, N. C. 27569  
Tel: 919/ 936-3151

Professional Staff: Mr. John Young Tel: 733-2578  
Legislative Services Office

Clerical Staff: Mrs. Loraine Newsome Tel: 733-7850

(Senate Committee Clerks)

AGING

The Legislative Research Commission's Committee on the Problems of Aging held six meetings since its authorization by the 1983 General Assembly. Many persons consider this Committee a major forum for those concerned with aging and so many groups and persons were heard. The following issues were discussed:

- (1) State Programs for the elderly;
- (2) Services to prevent institutionalization;



- (3) Regulation of life care centers; and
- (4) Tax reform for the elderly.

The Committee made the following recommendations to the 1983 General Assembly, Second Session 1984:

- (1) An appropriation of \$500,000 to the Division of Aging to continue the establishment of senior centers. A senior center is a focal point on aging where older persons as individuals come together for services and activities. There are presently 62 centers in the State. The appropriation would provide one-time grants for construction, renovation and equipment. The money would be limited to \$40,000 for each center and would supplement local funds.
- (2) An appropriation of \$200,000 to the Division of Social Services for adult day-care. This request would continue the one-time 1983-84 appropriation plus allow some additional funds for start-up grants for those counties wishing to start programs.
- (3) Amend State law to strengthen the confidentiality safeguards for records of rest home residents. Language in domiciliary home patients' bill of rights is being interpreted to mean that a resident can only keep his records confidential if he objects in writing. The Committee believes that this interpretation does not follow the intent of the original legislation and that the confidentiality requirement should be more stringent. The proposed new language would require that a resident's personal and medical records must be kept confidential and not released unless the resident authorizes the release or disclosure in writing.

Of the four bills introduced as a result of these recommendations, three were enacted into law.

The following legislative recommendations were suggested to the 1985 General Assembly:

- (1) Continue the Legislative Research Commission's Committee on Aging;
- (2) Amend State law to allow the Attorney General to represent members of the Nursing Home and Domiciliary Home Advisory Committees in case of liability arising from the exercise of their duty;
- (3) For persons 65 and over and disabled persons increase the property tax exemption from \$8500 to \$9500 and raise the disposable income level from \$9000 to \$12,000;
- (4) License adult day-care programs by the State of North Carolina. Adult day-care is a service for the frail elderly and disabled. It is intended to enable people to remain in their homes as long as possible and to enjoy as much freedom and independence as possible. It is the fear that as adult day-care becomes more popular

- and the chance for profit becomes more apparent that unscrupulous operators may enter the market;
- (5) Exempt from State income taxation for persons 65 and older the amount received from private employer retirement pensions not to exceed \$3000 annually;
  - (6) Appropriate \$500,000 to the Division of Aging to continue the establishment of senior centers. There are presently 70 centers in 59 counties. The appropriation would move the State toward the goal of one senior center in each county;
  - (7) Establish by State Statute the long term care ombudsman program. This program is ongoing in the Division of Aging under federal requirement. Since it has been of such benefit to the institutionalized elderly, the State should authorize it to remove it from the uncertainty of federal requirements; and
  - (8) Certify life care facilities by the State. The distinguishing feature of life care facilities is that the resident is promised housing, health care, and various services. The resident agrees to pay, in advance, certain fees to help cover the costs of these services. While the concept of life care promises financial and social security for many elderly residents it also poses significant financial risks. State regulation will protect the financial security of citizens who participate in this form of long term care.

FULL REPORTS OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

#### PUBLIC HEALTH FACILITIES

Authorization: Chapter 905, §1, 1983 Session Laws (S.J.R. 656)

#### Committee Members:

##### President Pro Tempore's Appointments

Sen. Anthony E. Rand,  
Cochairman  
P. O. Box 1239  
Fayetteville, N. C. 28302  
Tel: 919/ 483-2101

Sen. William G. Hancock, Jr.  
P. O. Box 586  
Durham, N. C. 27702  
Tel: 919/ 682-5691

##### Speaker's Appointments

Rep. Marvin D. Musselwhite,  
Jr., Cochairman  
P. O. Box 10096  
Raleigh, N. C. 27605  
Tel: 919/ 834-5241

Rep. William T. Grimsley  
Rt. 3, Box 85-A  
Summerfield, N. C. 27358  
Tel: 919/ 643-3230

## HUMAN RESOURCES

Sen. Harold W. Hardison  
P. O. Box 128  
Deep Run, N. C. 28525  
Tel: 919/ 568-3131

Rep. W. Paul Pulley, Jr.  
Brightleaf Square  
P. O. Box 3600  
Durham, N. C. 27702  
Tel: 919/ 682-9691

Sen. William W. Redman, Jr.  
Rt. 2, Box 43  
Statesville, N. C. 28677  
Tel: 704/ 872-2081

Rep. Tom C. Womble  
7557 Tanglewood Ct.  
Clemmons, N. C. 27012  
Tel: 919/ 766-5286

Sen. James D. Speed  
Rt. 6, Box 474  
Louisburg, N. C. 27549  
Tel: 919/ 853-2167

Rep. Charles D. Woodard  
P. O. Box 10273  
Goldsboro, N. C. 27532  
Tel: 919/ 731-2855

Professional Staff: Mr. John Young Tel: 733-2578  
Legislative Services Office  
Clerical Staff: Mrs. Loraine Newsome Tel: 733-7850

## PUBLIC HEALTH FACILITIES

The Legislative Research Commission's Committee on Public Health Facilities was created to make recommendations about the sale or lease of public hospitals to for-profit corporations. Two other issues were added to the Study. The first relates to the definition of an ambulatory surgical facility. The final issue referred to the Study relates to conflict of interest problems for governing authorities of hospital authorities.

After holding four meetings the Committee recommended the following legislation to the 1983 General Assembly, Second Regular Session 1984:

- (1) A bill that would establish some safeguards and procedural requirements before any public hospital is sold or leased to an investor-owned corporation. The proposed legislation is in three parts, one part dealing with a lease to a hospital by a municipality, one dealing with a lease to a hospital authority, and one dealing with the sale of a hospital by a municipality or a hospital authority. Each part is substantially the same and adds to the present law's guarantee of continued nondiscriminatory service to the general public, and to indigents in particular. A guarantee of specific essential services' continuation is added. The bill also permits termination of services, upon certain specified procedures. Both subleases and succeeding sales are made subject to the same conditions as are the initial leases and sales. The sales paragraph has a reverter provision, slightly expanded from current law, to apply to succeeding sales, further to guarantee compliance with the provisions.

The lease sections and the sale section are new and spell out the due process procedures the public entity must follow before leasing or selling a public hospital. The procedures require notice of intent to lease or sell, solicitation of proposals, request for Statements of Information, holding of a public hearing, a final public meeting to approve or deny the sale or lease, and the submission of an annual report from the lessee or buyer.

- (2) A bill that would provide an adequate definition for an ambulatory surgical program and facility. The proposed definition states that ambulatory surgery is same-day surgery, not requiring hospitalization and not requiring overnight stay. Licensure would be required if a facility is performing ambulatory surgery according to the proposed definition.
- (3) A bill that would make the Hospital Authority Law consistent with the general criminal statute on conflict of interest. The 1983 General Assembly provided in G.S. 14-234 an exception to the conflict of interest statutes for hospital board members who own 10 percent (10%) or less of stock of a corporation or 10 percent (10%) or less of ownership of a business entity that does business with the hospital. The exception would allow these persons to serve on the board as long as the board member did not participate in a vote affecting his company. The proposed bill would take the language in G.S. 14-234 and place it in G.S. 131E, the Hospital Authority Law, so that there is no future confusion about its applicability.
- (4) A bill that would provide some protection for Area Health Education Center activities in those hospitals that may be sold to for-profit corporations. The proposed legislation would require that a municipality or hospital authority give specific notice of intent to sell or lease to the director of the AHEC program. It would also allow the municipality or hospital authority to provide continued access to identical or equivalent facilities suitable for continuation of AHEC activities.

The recommendations submitted to the 1983 General Assembly, Second Regular Session 1984 completed the charge to the Committee. Therefore, no further report was necessary to the 1985 General Assembly.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

VII. INSURANCE

## INSURANCE

Authorization: Chapter 905, §1, 1983 Session Laws (H 63,  
H 1069, H 1243)

## Committee Members:

President Pro Tempore's Appointments	Speaker's Appointments
Sen. Joseph E. Johnson, Cochairman P. O. Box 750 Raleigh, N. C. 27602 Tel: 919/ 833-9789	Rep. Foyle Hightower, Jr., Cochairman Rt. 2, Box 2 Wadesboro, N. C. 28170 Tel: 704/ 694-2515
Sen. Julian R. Allsbrook*	Rep. Frank Ballance, Jr. 113 W. Market St. Warrenton, N.C. 27589 Tel: 919/ 257-1012
Sen. J. J. Harrington P. O. Drawer 519 Lewiston/Woodville, N. C. 27849 Tel: 919/ 348-2192	Rep. Charles Beall Rt. 3, Box 322 Clyde, N. C. 28721 Tel: 704/ 627-2423
Sen. Cecil R. Jenkins, Jr. P. O. Box 65 Kannapolis, N. C. 28081 Tel: 704/ 786-2189	Rep. John C. (Pete) Hasty P. O. Box 338 1181 W. Saunders St. Maxton, N. C. 28364 Tel: 919/ 844-5257
Sen. Donald R. Kincaid P. O. Box 988 Lenoir, N. C. 28645 Tel: 704/ 758-5181	Rep. Hugh A. Lee Rt. 3, Box 445 Rockingham, N. C. 28379 Tel: 919/ 895-2112
	Rep. Mary Seymour 1105 Pender Lane Greensboro, N. C. 27408 Tel: 919/ 288-5631
Professional Staff: Mr. William Hale	Tel: 733-2578
Legislative Services Office	
Clerical Staff: Mrs. Lillie Pearce	Tel: 733-5853

## INSURANCE

After several preliminary meetings among the Committee Cochairmen, Counsel, Insurance Commissioner Ingram, and Insurance Commissioner-elect Long, the full Committee held four meetings and reported to the 1985 General Assembly. The Committee focused

its attention on the issue of insurance company solvency; and the role of the State in monitoring the financial status of companies in order to guarantee that companies will fulfill their promises to pay or indemnify their policyholders.

The Committee studied North Carolina's laws on financial regulation of insurers, including formation and organization of companies, licensing prerequisites, requirements for maintaining adequate reserves and surplus, investment requirements, reporting requirements and examinations, and the analysis of company financial statements. The Committee also reviewed the National Association of Insurance Commissioners' model acts on guaranty funds and insurance holding company system regulation. The issue of deregulation of banking and securities and the potential effect of that deregulation on the insurance industry was studied with a view toward safeguarding the public from insurance company insolvencies that might arise out of financial instability caused by the integration of financial services. On the same note, the Committee looked at North Carolina's system of approving and regulating employers who desire to insure themselves (individually or in groups) against liability under the State Workers' Compensation Act.

The Committee made the following findings and recommendations:

A. The Department of Insurance needs and should be provided with electronic data processing equipment as well as additional in-house financial examiners to more quickly and efficiently monitor the financial situations of companies. With the advances in computer technology available to the financial services industry, funds can be electronically transferred between and among corporations in seconds, but most insurance regulators must rely on manual analysis of company financial statements that are filed only once every year. The Committee recommends that the 1985 General Assembly appropriate additional funds to the Department for this purpose. Once the Department is automated, companies should be required to file their financial statements on a quarterly basis.

B. The NAIC adopted model guaranty fund and holding company system acts in the late 1960's and early 1970's in response to corporate buy-ups of insurance companies and a rash of insurance company insolvencies. The purposes of the model acts were to avoid insurer solvency regulation at the federal level (as with banks, thrift institutions, and securities). Most states, including North Carolina, adopted versions of these model acts; North Carolina, however, has not kept its versions current with the NAIC models. Uniformity among the states is important in order to retain state jurisdiction over insurer solvency regulation. Therefore, the Committee recommends that the 1985 General Assembly examine the previous and forthcoming NAIC revisions to the model acts with a view toward updating North Carolina's laws.

C. All employers subject to the Workers' Compensation Act are required to buy workers' compensation insurance or prove financial ability (individually or in groups) to pay claims under the Act. The North Carolina Industrial Commission is by law

responsible for approving and regulating self-insured employers; but the Commission does not have the personnel or expertise that is needed for the proper actuarial and financial analysis of the increasing number of employers who are applying for self-insured status. The Commission recommends that the Insurance Department assume this role simply because it has the people who can perform this increasingly important regulatory function.

D. Since North Carolina began regulating insurance in the late 1800's, there have been many enactments by the General Assembly to fulfill the State's regulatory role; there has never been, however, an attempt to completely rewrite and recodify North Carolina's insurance statutes. On at least three occasions the North Carolina Supreme Court emphatically stated that a rewrite was necessary, and the Committee agrees. The Committee recommends that a 12-member, well-funded, special study commission be created by the 1985 General Assembly. The Commission should study our property and casualty insurance laws for the first two years and report to the 1987 General Assembly. The Commission should study our life and health insurance laws (as well as any leftover property and casualty work) and report to the 1989 General Assembly.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.





VIII. LAW AND COURTS

DISTRICT ATTORNEYS AND REGISTER OF DEEDS

Authorization: Chapter 905, §1, 1983 Session Laws (H 1204,  
S 496)

Committee Members:

President Pro Tempore's Appointments	Speaker's Appointments
Sen. Charles W. Hipps, Cochairman Suite 305 505 N. Main St. Waynesville, N. C. 28786 Tel: 704/ 452-2866	Rep. Wendell H. Murphy, Cochairman Rt. 1, Box 762 Rose Hill, N. C. 28458 Tel: 919/ 289-2970
Sen. Julian R. Allsbrook*	Rep. Phillip O. Berry*
Sen. Harold W. Hardison P. O. Box 128 Deep Run, N. C. 28525 Tel: 919/ 568-3131	Rep. James E. Lambeth, Jr. 214 Lake Drive East Thomasville, N. C. 27360 Tel: 919/ 475-7166
Sen. R. C. Soles, Jr. P. O. Box 6 Tabor City, N. C. 28463 Tel: 919/ 653-2015	Rep. Charles D. Owens P. O. Box 610 520 W. Main St. Forest City, N. C. 28043 Tel: 704/ 245-6951
Sen. Robert S. Swain 612 Northwestern Bank Building Asheville, N. C. 28801 Tel: 704/ 255-7703	Mr. Conrad Burrell Register of Deeds Jackson County Jackson County Courthouse Sylva, N. C. 28779 Tel: 704/ 586-2715
Professional Staff: Miss Genie Rogers Tel: 733-2578 Legislative Services Office	
Clerical Staff: Mrs. Loraine Newsome Tel: 733-7850 (Senate Committee Clerks)	

DISTRICT ATTORNEYS AND REGISTER OF DEEDS

The Committee on District Attorneys and Register of Deeds met on Tuesday, January 3, 1984. Those present heard remarks from Senator Robert S. Swain, Judge S. Gerald Arnold of the North Carolina Court of Appeals, and Mr. Ronald C. Brown, President of the District Attorneys' Association, on the subject of defining and disciplining prosecutorial misconduct. Mr. Robert Robinson, Mrs. Christine W. Williams, and Mr. Conrad Burrell, Registers of Deeds in Brunswick, Duplin, and Jackson Counties, respectively,

## LAW AND COURTS

addressed the committee on the subject of uniform fees, salaries, and retirement benefits for registers of deeds across the State. The Committee decided not to take any action on either subject it studied and therefore made no report to the General Assembly.

### STATUTORY LIENS AND FARM PRODUCTS SECURITY

Authorization: Chapter 905, §1, and Res. 53, 1983 Session  
Laws (S 680)

#### Committee Members:

##### President Pro Tempore's Appointments

Sen. Cecil R. Jenkins, Jr.,  
Cochairman  
P. O. Box 65  
Kannapolis, N. C. 28081  
Tel: 704/ 786-2189

Sen. Henson P. Barnes  
P. O. Drawer 7  
Goldsboro, N. C. 27530  
Tel: 919/ 735-6420

Sen. Elton Edwards  
P. O. Box 448  
Greensboro, N. C. 27402  
Tel: 919/ 373-8764

Sen. David R. Parnell  
P. O. Box 100  
Parkton, N. C. 28371  
Tel: 919/ 858-3521

Sen. Aaron W. Plyler  
2170 Concord Avenue  
Monroe, N. C. 28110  
Tel: 704/ 289-3541  
283-1283

##### Speaker's Appointments

Rep. Margaret Tennille,  
Cochairman  
P. O. Box 5988  
Winston-Salem, N. C. 27103  
Tel: 919/ 722-7617

Rep. Ray C. Fletcher  
P. O. Box 68  
Valdese, N. C. 28690  
Tel: 704/ 874-0701

Rep. Wendell H. Murphy  
Rt. 1, Box 76E  
Rose Hill, N. C. 28458  
Tel: 919/ 289-2970

Rep. Joseph B. Roberts, III  
1432 Laurel Ln.  
Gastonia, N. C. 28052  
Tel: 704/ 867-4674

Rep. J. Paul Tyndall  
414 Woodhaven Dr.  
Jacksonville, N. C. 28540  
Tel: 919/ 346-8812

Professional Staff: Mr. Conrad A. Airall Tel: 733-2578  
Legislative Services Office

Clerical Staff: Mrs. Sarah Murphy Tel: 733-5649  
(Senate Committee Clerks)

### STATUTORY LIENS AND FARM PRODUCTS SECURITY

The Committee was authorized to study the Uniform Commercial Code's (UCC) provisions relating to security interest in farm products, and statutory liens on real property, specifically the

liens of mechanics, laborers, and materialmen as contained in Chapter 44A of the General Statutes. Prior to the 1984 Session the Committee decided to focus only on the UCC aspect of the study. The time and budget constraints made it necessary for the Committee to defer consideration of the statutory liens aspect of the study until after the adjournment of the 1983 General Assembly (Second Session, 1984).

The Committee held three meetings prior to the 1984 short Session. It considered the problems confronting the purchasers of farm products, i.e. crops and livestock, that are subject to a lien. These problems stem from the existing provisions of G.S. 25-9-307(1), and G.S. 25-9-401. The former provision generally protects a buyer in the ordinary course of business against having to pay twice when he purchases goods that are subject to security interest created by the seller. On the contrary, a purchaser of farm products does not enjoy a similar protection. The holder of the security interest, usually a financial institution, could turn to the purchaser for payment if the seller fails to pay the debt owed on the farm products. This occurs even if the purchaser had no knowledge of the security interest. The seller is under no legal obligation to disclose to the purchaser the existence of the security interest in the farm products. The purchaser is thus exposed to the possibility of having to pay twice for the same products.

G.S. 25-9-401 contains the provisions for the filing of security interests. Generally it requires local filing of crop liens. When the collateral is farm equipment or farm products the proper place to file in order to perfect the security interest in the collateral is in the Office of the Register of Deeds in the county of the debtor's residence. Additionally, when the collateral is crops "growing or to be grown" the filing has to be made in the Office of the Register of Deeds of the county where the land is located. This particular statutory provision makes it burdensome for a prospective purchaser to discover the existence of liens on particular crops, or, liens on livestock when filing has occurred in multiple counties. If the purchaser makes payment only to the seller, and the seller does not pay the financial institution, the purchaser may again have to pay twice for the same goods.

The Committee deliberated on the problems posed by these two statutory provisions. On the basis of the information presented, it recommended two pieces of legislation to the 1984 Session aimed at addressing the problem. The recommended legislation proposed that:

- (1) Livestock businesses be given notice that the particular livestock to be sold is subject to a security interest prior to the time of sale; and
- (2) in the case of crops growing or crops to be grown, all liens against those crops are to be filed in the Office of The Secretary of State in addition to filing in the county of the debtor's residence.

Following the 1984 Session the Committee met to consider the statutory liens aspect of the study. It met on two occasions, Friday, November 30, and Wednesday, December 5, 1984.

Various individuals representing subcontractors, and general contractors addressed the Committee on a number of aspects of the relationship between the subcontractor and the general contractors. The most troubling aspect of the relationship dealt with payment from the general contractors to the subcontractors.

It was apparent to the Committee that a significant number of subcontractors who supply labor or material for improvement to real property were experiencing "slow payment" or "no payment" problems because of the general contractors' method of handling funds received in connection with contracts to improve real property.

The Committee considered several possible legislative responses to address the subcontractors' concerns. A majority of the Committee was, however, unable to agree to a specific response. It was finally decided that the General Assembly should authorize a further study of the issue. No formal report was made to the 1985 General Assembly on this aspect of the Committee's work.

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#### WORTHLESS CHECKS

Authorization: Chapter 905, § 1, 1983 Session Laws (S.J.R. 661)

#### Committee Members:

##### President Pro Tempore's Appointments

Sen. R. P. Thomas,  
Cochairman  
P. O. Drawer 220  
Hendersonville, N. C. 28793  
Tel: 704/ 692-6472

Sen. Richard W. Barnes  
3810 Coral Lane  
Winston-Salem, N. C. 27106  
Tel: 919/ 924-6777

Sen. Dennis J. Winner  
P. O. Box 7621  
Asheville, N. C. 28807  
Tel: 704/ 258-0094

Mr. Steve Buck

##### Speaker's Appointments

Rep. Robie L. Nash,  
Cochairman  
232 Richmond Rd.  
Salisbury, N. C. 28144  
Tel: 704/ 633-3430

Rep. Luther R. Jeralsd  
319 Jasper St.  
Fayetteville, N. C. 28301  
Tel: 919/ 488-9258

Rep. Tom Matthews  
P. O. Box 1478  
Rocky Mount, N. C. 27801  
Tel: 919/ 446-8701

Rep. D. R. Mauney, Jr.

LAW AND COURTS

Box 1330  
Salisbury, N. C. 28144  
Tel: 704/ 637-1610

P. O. Box 605  
Cherryville, N. C. 28021  
Tel: 704/ 435-9271

Mr. Arlis Vernon, Jr.  
5940 LaSierra Dr.  
Pfaafftown, N. C. 27040  
Tel: 919/ 725-9741

Rep. John W. Varner  
116 Ridgewood Dr.  
Lexington, N. C. 27292  
Tel: 704/ 246-4234

Professional Staff: Mr. Conrad A. Airall Tel: 733-2578  
Legislative Services Office

Clerical Staff: Mrs. Sarah Murphy Tel: 733-5649  
(Senate Committee Clerks)

WORTHLESS CHECKS

The Legislative Research Commission Study Committee on Worthless Checks held three meetings. The meetings were held prior to the 1984 Session. The Committee examined the problem of worthless checks from the perspective of courts, the district attorneys, merchants, the banks, and the defendant in worthless check cases, i.e. the check passer.

On the basis of the discussions and the information presented, the Committee made six findings. The findings are summarized as follows:

(1) The problem of worthless check writing in North Carolina is sufficiently severe to warrant legislative action; (2) The existing statutory provisions do not require uniformity in the prosecution or processing of worthless check cases; (3) The incentive to write worthless checks could be reduced if complainants were given additional leverage in civil courts when seeking to recover on worthless checks; (4) There is apparent support in the business community, particularly by retail merchants, for requiring financial institutions to print on the face of checks additional information which will alert a person taking a check of the age of the particular account; (5) The existing procedures, both legislative and administrative, employed by the judicial system in worthless check cases, do not adequately inform the individual defendant that conviction will result in his or her having a permanent criminal record; (6) Some businesses experience substantial losses when checks drawn on out-of-state financial institutions turn out to be worthless, and it is difficult to collect on such checks.

The Committee originally intended to recommend several pieces of legislation to the 1985 General Assembly. It had tentatively decided to recommend legislation that would:

- (1) require that when a person is convicted of writing worthless checks the trial judge may require that the person refrain from writing worthless checks as a condition of probation;
- (2) permit the individual who receives a worthless check to initiate a separate cause for action for treble the amount of the worthless check when the check passer fails to pay the dishonored check

within some given time after demand for payment is made;

- (3) require legislation that would make it a Class J felony for writing a worthless check for \$500 or more on an out-of-state financial institution;
- (4) modify the worthless check law to make it clear that all trial courts must require that a complainant comply with the provisions of G.S. 14-107.1 before warrants for worthless checks are issued;
- (5) require mandatory jail sentences or community service work for repeat offenders in worthless check cases; and
- (6) mandate that financial institutions print on the face of all checks the date the account was opened.

These tentative findings and recommendations were originally outlined to the Legislative Research Commission at its May 17, 1984 meeting. The Committee did not meet after the 1984 Session, and it will not make a final report to the 1985 General Assembly.

IX. REVENUE

## REVENUE LAWS

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.R. 16)

## Committee Members:

President Pro Tempore's Appointments      Speaker's Appointments

Sen. Marshall A. Rauch,  
Cochairman  
Box 609  
Gastonia, N. C. 28052  
Tel: 704/ 867-5000

Rep. Daniel T. Lilley,  
Cochairman  
P. O. Box 824  
Kinston, N. C. 28501  
Tel: 919/ 523-4309

Sen. Jack Childers  
16 W. First Ave.  
Lexington, N. C. 27292  
Tel: 704/ 249-0622

Rep. T. Clyde Auman  
Rt. 1, Box 224  
West End, N. C. 27376  
Tel: 919/ 673-4391

Sen. Kenneth R. Harris  
200 Southern Nat. Center  
Charlotte, N. C. 28202  
Tel: 704/ 373-1835

Rep. Sidney A. Locks  
P. O. Box 290  
1600 Fairmont Rd.  
Lumberton, N. C. 28358  
Tel: 919/ 739-7202

Sen. William W. Staton  
205 Courtland Dr.  
Sanford, N. C. 27330  
Tel: 919/ 775-5616

Rep. Josephus L. Mavretic  
Box 1982  
Tarboro, N. C. 27886  
Tel: 919/ 823-0366

Mr. Robert Merritt  
P. O. Box 349  
Raleigh, N. C. 27602  
Tel: 919/ 821-4900

Rep. Murray P. Pool  
P. O. Box 779  
Clinton, N. C. 28328  
Tel: 919/ 592-2662

Professional Staff: Ms. Sabra Paires Tel: 733-6660

Mr. Dave Crotts Tel: 733-4910

Ms. Carla Peterson Tel: 733-4910

Legislative Services Office

Clerical Staff: Mrs. Ada Edwards Tel: 733-5958/5621

## REVENUE LAWS

The Legislative Research Commission's Revenue Laws Study Committee met eleven times; six meetings, as well as a joint meeting with the Property Tax System Study Committee, were held before the 1984 Legislative Session, and five meetings were held after that session. In addition to these meetings, the Revenue Laws Study Committee's Subcommittee on Sales and Use Taxes had three meetings, all of which were held after the 1984 Session. Both before and after the 1984 Session, the committee devoted

approximately one-half of its time to the study of the general tax structure in North Carolina and the remaining one-half of its time to the study of specific tax problems. The committee's sales tax subcommittee likewise divided its time between a general discussion of the equity of the current sales tax structure and a discussion of specific problems and proposals.

The committee made an interim report to the 1984 Session that included ten legislative proposals, eight new bills or resolutions and two proposed committee substitutes for pending legislation. The committee also made a final report to the 1985 General Assembly that included twenty-one legislative proposals, two recommendations unaccompanied by legislation, and material on State sales and use tax rates presented for informational purposes only.

Since the 1984 Session, the committee has continued to study the tax on intangible personal property and the property tax on business inventories, has undertaken a recodification of the alcoholic beverage tax statutes, and has considered numerous specific requests of taxpayers and tax administrators. The committee has also studied House Bill 1002 and Senate Bill 156 of the 1983 Session, which were referred to the study committee by the House and Senate Finance Committees respectively.

As part of its study of the intangibles and inventory taxes, the committee held a summit meeting of interested taxpayers and officials to hear proposals concerning these taxes. Approximately one hundred groups and individuals were invited to present their ideas to the committee at the summit meeting, particularly their ideas on how to compensate for any loss of revenue created by granting some type of relief from intangibles or inventory taxes. Fifteen people presented their views on these issues at the summit meeting.

As in the past, the committee proved to be an excellent forum for taxpayers and tax administrators to propose changes in the revenue laws. Numerous taxpayers either appeared before the committee or wrote to the committee and suggested changes in the revenue laws. In addition, the Department of Revenue made numerous proposals to the committee to improve the administration of the revenue laws and to make the laws easier for taxpayers to understand. The topics raised by concerned taxpayers and the Department of Revenue touched on practically every area of taxation, including inheritance and gift taxes, sales taxes, income taxes, intangibles and inventory taxes, and alcoholic beverage taxes. The committee made recommendations on many of these topics, and took no action on others.

The committee's sales tax subcommittee made a thorough study of the rationale for each sales tax exemption or preferential sales tax rate, considered the sales tax problems brought to the committee's attention by concerned taxpayers and referred to the subcommittee, and considered House Bill 1002 of the 1983 Session. As part of its study of sales and use taxes, the subcommittee explored the idea of incorporating the local sales taxes into the State sales tax, repealing the local sales taxes, and distributing the increase in the State sales tax to local



governments. The subcommittee also explored the idea of providing a refundable income tax credit to low income taxpayers for the estimated amount of sales tax paid by them on food. Following is a list of the legislative proposals of the committee.

- (1) An Act to Eliminate Double Taxation of Income in Respect of a Decedent.
- (2) An Act to Exempt Money from the Tax on Intangible Personal Property and to Reimburse Local Governmental Units for the Resulting Revenue Loss.
- (3) An Act to Simplify the Alcoholic Beverage Tax Statutes.
- (4) An Act to Allow Individuals a Five-Year Carryforward of Any Unused Charitable Deduction.
- (5) An Act to Conform the State Dependent Care Credit to the Federal Credit Regarding Care for a Disabled Dependent or Spouse and the Maximum Amount of Employment-Related Expenses Eligible for the Credit.
- (6) An Act to Update the Reference to the Internal Revenue Code Used in Determining Certain Taxable Income and Tax Exemptions.
- (7) An Act to Extend the Income Tax Exclusion for Certain Employee Death Benefits to Similar Death Benefits of Self-Employed Individuals.
- (8) An Act to Allow Certain Members of the Armed Forces Who Are On Extended Active Duty a Longer Period of Time in Which to Roll Over Gain on the Sale of Their Principal Residence.
- (9) An Act to Allow a Divorced or Separated Parent to Claim an Income Tax Deduction for Expenses for Medical Care for His Child, Regardless Whether the Parent Provided Over One-Half His Child's Support for the Taxable Year.
- (10) An Act to Transfer the Responsibility for Issuing Bingo Licenses and Establishing Audit Procedures For Bingo Accounts From the Department of Revenue to Cities and Counties.
- (11) An Act to Make Clear That the Privilege License Tax on Persons Engaged in the Business of Selling Knives and Other Weapons Does Not Apply to Persons Engaged in the Business of Selling Slingshots.
- (12) An Act to Clarify the Scope of the Inheritance Tax Exemption for Property Passing to a Charitable, Religious, or Educational Organization or For a Charitable, Religious, or Educational Purpose.
- (13) An Act to Remove the Reporting Requirements for Estates of Less than One Hundred Thousand Dollars in Value.
- (14) An Act to Eliminate the Necessity of Obtaining an Inheritance Tax Waiver to Transfer or Deliver Certain Securities Declared And Interest Accruing After the Decedent's Death.

- (15) An Act to Allow Spouses to Share their Annual Gift Tax Exclusions Only if Both Spouses are Residents of North Carolina and to Make Consent to Share Annual Exclusions Irrevocable.
- (16) An Act Making a Technical Correction to the Revenue Laws.
- (17) An Act to Repeal the Sales Tax Exemption for Ice.
- (18) An Act to Tax All Horses Except Draft Horses at the General State and Local Sales Tax Rates.
- (19) An Act to Increase the Partial Sales Tax Exemption for Funeral Expenses to Account for Inflation.
- (20) An Act Regarding a Certificate of Resale.
- (21) A Joint Resolution Authorizing the Legislative Research Commission to Continue to Study the Revenue Laws of North Carolina.

FULL REPORTS OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

#### STATE RENTAL HOUSING

Authorization: Chapter 905, §2, 1983 Session Laws

#### Committee Members:

##### President Pro Tempore's Appointments

Sen. Dallas L. Alford, Jr.,  
Cochairman  
P. O. Drawer 229  
Rocky Mount, N. C. 27801  
Tel: 919/ 442-4696

Sen. James H. Edwards  
P. O. Box 524  
Granite Falls, N. C. 28630  
Tel: 704/ 328-6405

Sen. Ollie Harris  
P. O. Box 627  
Kings Mountain, N. C. 28086  
Tel: 704/ 739-2591

Mr. Ben W. Aiken  
West Beechgrove Rd.  
Raleigh, N. C. 27612  
Tel: 919/ 848-0199

Mr. T. R. Lawing

##### Speaker's Appointments

Rep. George Brannan,  
Cochairman  
309 Maplewood Dr.  
Smithfield, N. C. 27577  
Tel: 919/ 934-8729

Rep. C. Melvin Creecy  
P. O. Box 526  
Rich Square, N. C. 27869  
Tel: 919/ 539-2980

Rep. J. Worth Gentry  
Rt. 3, Box 81  
King, N. C. 27021  
Tel: 919/ 983-3208

Rep. Mary Seymour  
1105 Pender Lane  
Greensboro, N. C. 27408  
Tel: 919/ 288-5631

Rep. Edward N. Warren

500 S. Tryon St.  
Charlotte, N. C.  
Tel: 704/ 334-6481

227 Country Club Dr.  
Greenville, N. C. 27834  
Tel: 919/ 756-2671

Professional Staff: Ms. E. Ann Christian Tel: 733-6660  
Legislative Services Office  
Clerical Staff: Mrs. Sue Robertson Tel: 733-5649  
(Senate Committee Clerks)

#### STATE RENTAL HOUSING

The Legislative Research Commission's Committee to study State-owned Rental Housing issued its final report to the 1983 General Assembly, 1984 Session as a result of one organizational meeting of the Committee leadership and two meetings of the entire Committee.

The Committee found; (1) The State owns approximately 1200 rental housing units; (2) No standard rental policy or uniform rental rate exists among the various departments; (3) Rental agreements share some features; (4) The Office of State Personnel very rarely, if ever, factors housing benefits into the compensation of State employees; and (5) There are numerous benefits which the State enjoys as a result of owning and maintaining rental housing.

The Committee recommendations were:

- (1) Specific real estate identified by the departments owning the housing should be sold;
- (2) Specific housing units identified by the departments owning the housing should be sold only with the stipulation that the house be removed from State property;
- (3) Specific housing units should be converted to an alternative use;
- (4) Because it is the policy of the State of North Carolina to provide housing only in cases in which an essential State purpose is served, each department owning rental housing should regularly review its inventory of rental housing and continue to divest itself of nonessential rental housing; and
- (5) The Department of Administration shall set rental rates and determine maintenance policies for all State-owned rental housing on an annual basis. Finally, the Committee adopted AN ACT TO DIVEST STATE DEPARTMENTS OF NONESSENTIAL STATE-OWNED RENTAL HOUSING, which it recommended for enactment during the short session.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

## USER FEES AT STATE FACILITIES

Authorization: Chapter 905, §3, 1983 Session Laws

## Committee Members:

## President Pro Tempore's Appointments

## Speaker's Appointments

Sen. James D. Speed,  
Cochairman  
Rt. 6, Box 474  
Louisburg, N. C. 27549  
Tel: 919/ 853-2167

Rep. Gerald Anderson,  
Cochairman  
P. O. Box 568  
Bridgeton, N. C. 28519  
Tel: 919/ 633-2830

Sen. Helen Rhyne Marvin  
119 Ridge Lane  
Gastonia, N. C. 28052  
Tel: 704/ 864-2757

Rep. C. Robert Brawley  
P. O. Box 1322  
Mooreville, N. C. 28115  
Tel: 704/ 664-1502

Sen. Aaron W. Plyler  
2170 Concord Ave.  
Monroe, N. C. 28110  
Tel: 704/ 289-3541  
704/ 283-1283

Rep. Howard B. Chapin  
212 Smaw Rd.  
Washington, N. C. 27889  
Tel: 919/ 946-3480

Sen. Lura Tally  
3100 Tallywood Dr.  
Fayetteville, N. C. 28303  
Tel: 919/ 484-4868

Rep. Annie Brown Kennedy  
3727 Spaulding Dr.  
Winston-Salem, N. C. 27105  
Tel: 919/ 723-0007

Secretary Sara W. Hodgkins  
N. C. Dept. of Cultural Resources  
109 E. Jones St.  
Raleigh, N. C. 27611  
Tel: 919/ 733-4867

Rep. James E. Lambeth, Jr.  
214 Lake Drive East  
Thomasville, N. C. 27360  
Tel: 919/ 475-7166

Professional Staff: Mr. Dennis Bryan Tel: 733-2578

Legislative Services Office

Clerical Staff: Mrs. Sue Robertson Tel: 733-5649

(Senate Committee Clerks)

## USER FEES AT STATE FACILITIES

The Legislative Research Commission Study Committee on User Fees at State Facilities met five times before reporting to the 1985 General Assembly. After hearing from representatives of the Departments of Cultural Resources, Natural Resources and Community Development, and Agriculture regarding fees charged at the various State-owned cultural, historical, and recreational facilities they administer, the Committee focused its attention on possible methods of periodic legislative review and adjustment of agency user fees and on various approaches to reducing the State costs of operating the facilities.

The Committee made three recommendations:

- (1) Finding that the State's historical sites educate the public about the historical and cultural heritage of North Carolina and promote the State's tourist industry, the Committee recommended that the General Assembly further support the development of the State historical sites.
- (2) The Committee recommended that the Executive Budget Act be amended to require State agencies biennially to furnish the Governor and the Legislative Fiscal Research Division Director with certain specified information regarding the user fees they charge. This information would include the type of fee and the service provided in exchange for the fee, the fee amount, the year the fee was last increased, and the operating budget of each site or unit receiving fee revenues. This information would then be immediately available for any review of user fees by General Assembly members or committees.
- (3) In an effort to ensure that proposed legislation that would establish or expand a State cultural, recreational, and historical facility is carefully scrutinized, the Committee recommended that the Senate and House Rules Committees adopt rules providing that any such legislation requiring a continuing appropriation from the General Fund be considered separately from special bills for one-time grants-in-aid.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.



X. TRANSPORTATION

## EXECUTIVE BRANCH BOARDS

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.B. 1321)

## Committee Members:

## President Pro Tempore's Appointments

Sen. Jack Childers, CoChairman  
16 W. First Ave.  
Lexington, N. C. 27292  
Tel: 704/ 249-0622

Sen. Richard Barnes  
3810 Coral Lane  
Winston-Salem, N. C. 27106  
Tel: 919/ 924-6777

Sen. Wanda H. Hunt  
P. O. Box 1335  
Pinehurst, N. C. 28374  
Tel: 919/ 295-3794

Sen. Joseph E. Johnson  
P. O. Box 750  
Raleigh, N. C. 27602  
Tel: 919/ 833-9789

Sen. William N. Martin  
P. O. Box 21363  
Greensboro, N. C. 27420  
Tel: 919/ 373-8405

## Speaker's Appointments

Rep. Sam Beam, CoChairman  
513 Delview Rd.  
Cherryville, N. C. 28021  
Tel: 704/ 435-2862

Rep. J. Worth Gentry  
Rt. 3, Box 81  
King, N. C. 27021  
Tel: 919/ 983-3208

Rep. Herman C. Gist  
239 E. Market St.  
Greensboro, N. C. 27401  
Tel: 919/ 275-3846

Rep. John J. (Jack) Hunt  
Box 277  
Lattimore, N. C. 28089  
Tel: 704/ 434-6853

Rep. Robert C. (Bob) Hunter  
P. O. Box 1330  
Marion, N. C. 28752  
Tel: 704/ 652-2844

Professional Staff: Mr. Dennis Bryan Tel: 733-2578  
Legislative Services Office

Clerical Staff: Mrs. Betsy Sykes Tel: 733-5732

## EXECUTIVE BRANCH BOARDS

The Legislative Research Commission's Study Committee on Executive Branch Boards, Commissions, and Councils met three times and made a final report to the 1984 Regular Session of the 1983 General Assembly.

The Committee first determined that the General Assembly has the constitutional power to limit the number and duration of boards and councils in the executive branch of State government, whether created by the legislature or by officials in the executive branch. Concerned about the proliferation of boards serving no discernible purpose and the continued existence of boards that have outlived the purposes for which they were created, the Committee decided to study all boards in the

executive branch authorized to receive State funds. It decided not to include licensing boards in its study.

The North Carolina Center for Public Policy Research made available to the Committee about two years worth of research on boards in the executive branch. The Committee invited the heads of the State departments and other interested persons to comment on the Center's recommendations to abolish certain boards and consolidate the functions of other boards. When department heads disagreed with recommendations regarding boards under their supervision, they were asked to justify the continued existence of the particular boards.

The Committee then voted to make 3 sets of findings and recommendations:

- (1) The Committee found that one of the purposes of the system of boards and councils is to obtain participation by all segments of the State's citizenship. It felt that the citizens appointed to these boards are not truly representative of the State's population, because women and racial minorities are under-represented on the boards. The Committee recommended that women and racial minorities be appointed to these boards and councils in numbers more closely proportionate to their population in the State.
- (2) The Committee singled out the boards and councils it found were no longer necessary and that the supervising departments did not feel strongly should be kept and recommended that they be abolished or consolidated with other boards and councils.
- (3) The Committee found that the sunset provisions of G. S. 147-16.2 cover only those boards created by executive order. These represent a small fraction of the total number of boards in the executive branch: The Governor can create boards other than by executive order; other elected officials in the executive branch may create them; and appointed department heads can create councils advisory in nature. The Committee recommended that the sunset provisions of the existing law be extended to all boards and councils created by any executive branch official. The Governor and elected officials could extend particular boards for periods of up to two years, but the extension must be in writing and filed with the Legislative Library and the Secretary of State's Office.

After reporting to the June 1984 Session, the Committee held no further meetings and issued no subsequent report.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.



## INSPECTION OF MOTOR VEHICLES

Authorization: Chapter 905, §5, 1983 Session Laws

## Committee Members:

President Pro Tempore's Appointments	Speaker's Appointments
Sen. David R. Parnell, Cochairman P. O. Box 100 Parkton, N. C. 28371 Tel: 919/ 858-3521	Rep. Aaron E. Fussell, Cochairman 1201 Briar Patch Lane Raleigh, N. C. 27609 Tel: 919/ 834-7666
Sen. Henson Barnes P. O. Drawer 7 Goldsboro, N. C. 27530 Tel: 919/ 735-6420	Rep. Louise S. Brennan 2101 Dilworth Rd., East Charlotte, N. C. 28203 Tel: 704/ 375-7954
Sen. George W. Marion, Jr. P. O. Box 618 Dobson, N. C. 27017 Tel: 919/ 386-8272	Rep. David W. Bumgardner, Jr. P. O. Box 904 Belmont, N. C. 28012 Tel: 704/ 825-5301
Sen. Robert D. Warren Rt. 3, Box 25 Benson, N. C. 27504 Tel: 919/ 894-3944	Rep. Jeff H. Enloe, Jr. Rt. 1, Box 38 Franklin, N. C. 28734 Tel: 704/ 524-2632
Sen. Julius A. Wright P. O. Box 4412 Wilmington, N. C. 28403 Tel: 919/ 791-5040	Rep. Edith L. Lutz Rt. 3 Lawndale, N. C. 28090 Tel: 704/ 538-7818
Professional Staff: Mr. Kenneth T. Levenbook Tel: 733-6660 Legislative Services Office	
Clerical Staff: Mrs. Mary Whiting Tel: 733-5977	

## INSPECTION OF MOTOR VEHICLES

The Motor Vehicle Inspection Program Study Committee held three meetings at which it studied the history of periodic motor vehicle inspections nationwide and in North Carolina. The Committee solicited comments from the Commissioners of Motor Vehicles in all 50 states and the District of Columbia concerning inspection programs and studied more than 30 responses. The Committee studied, in detail, the current statutes on motor vehicle inspections and required equipment in North Carolina. The Committee heard testimony concerning the effectiveness and costs of the current inspection program. The Committee heard presentations from representatives of business groups and governmental agencies.

The Committee made the following findings and recommendations:

- (1) That the periodic motor vehicle inspection program is serving a beneficial function and should be continued.
- (2) That windshields and safety belts are safety related equipment which should be added to the inspection. Safety belts should be added on an advisory only basis.
- (3) That the method for determining when tires are unsafe should be changed to provide that when two tread-wear indicators (built into all tires) come in contact with the roadway the tire is unsafe.
- (4) That the fees collected for the inspection and inspection sticker be increased 60¢ and 15¢ respectively to provide inspection stations with a fair return for the time required and to provide the state with additional funds to enhance the supervision and enforcement of the inspection program.

The Committee did not make an interim report to the 1984 General Assembly but reported to the 1985 General Assembly.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

#### MOTORBOAT TITLES AND INSURANCE

Authorization: Chapter 905, §4, 1983 Session Laws

#### Committee Members:

##### President Pro Tempore's Appointments

Sen. Melvin R. Daniels, Jr.,  
Cochairman  
Box 346  
Elizabeth City, N. C. 27909  
Tel: 919/ 338-2141

Sen. Dennis J. Winner  
P. O. Box 7621  
Asheville, N. C. 28807  
Tel: 704/ 258-0094

Mr. Charles R. Pullwood  
Director of Operations  
N. C. Wildlife Resources  
Commission  
Raleigh, N. C. 27611

##### Speaker's Appointments

Rep. Mary Seymour,  
Cochairman  
1105 Pender Lane  
Greensboro, N. C. 27408  
Tel: 919/ 288-5631

Rep. Frank Ballance, Jr.  
113 W. Market St.  
Warrenton, N. C. 27589  
Tel: 919/ 257-1012

Rep. James W. Crawford, Jr.  
509 College St.  
Oxford, N. C. 27565  
Tel: 919/ 693-6119

TRANSPORTATION

Tel: 919/ 733-3391

Mr. J. Scott Harrell, Sr.  
609 W. Queen St.  
Edenton, N. C. 27932  
Tel: 919/ 482-7421

Rep. James E. Lambeth, Jr.  
214 Lake Dr. East  
Thomasville, N. C. 27360  
Tel: 919/ 475-7166

Mr. Charles A. Paxton  
Paxton Rubber Co.  
P. O. Box 212  
Harrisburg, N. C. 28075  
Tel: 704/ 392-4764

Rep. Margaret Stamey  
6201 Arnold Rd.  
Raleigh, N. C. 27607  
Tel: 919/ 851-0495

Professional Staff: Mr. William Hale Tel: 733-2578

Legislative Services Office

Clerical Staff: Sue Robertson Tel: 733-5649

(Senate Committee Clerks)

MOTORBOAT TITLES AND INSURANCE

The Motorboat Titles and Insurance Study Committee held two meetings and reported to the 1983 General Assembly on June 7, 1984. The Committee was authorized to study the possibilities of (1) establishing a titling program for motorboats; and (2) requiring owners of motorboats to carry liability insurance. The Committee found that the cost and impracticality of establishing and administering these programs clearly outweighed any need for or resulting benefits of doing so. The Committee therefore recommended no change in the present motorboat registration law and no new law regarding watercraft liability insurance.

During the course of the study, the National Transportation Safety Board issued a report on states' laws on alcohol and boating safety. In that report the Board recommended that North Carolina enact legislation to establish (1) a definite blood alcohol content level for legal intoxication and (2) an implied consent provision to allow chemical testing for intoxication. The Committee recommended that the Wildlife Resources Commission, which enforces the State's boating safety laws, study the need for these changes and report to the 1985 General Assembly.

The Committee found that two groups that had been created by statute were inactive: The North Carolina Water Safety Committee (G.S. 75A-20) and the North Carolina Water Safety Council (G.S. 143B-314). The Committee was informed by Wildlife Resources Commission officials that the duties of these groups were being carried out by a special committee of the Commission. The Committee recommended that the statutes affecting these two groups be repealed.

The Wildlife Resources Commission conducts a boating safety training course in the public schools, in which every year more than 80,000 persons of age 12 to 16 years are taught boating safety techniques and principles and are made aware of the boating laws. There was evidence that the subject matter learned in this course could be passed on by the students to other family members who might operate motorboats. The Committee recommended

expanding the course to reach more people outside of the public schools and that the Wildlife Resources Commission (1) purchase boating safety training films from the United States Coast Guard and (2) produce public service messages on boating safety for broadcast over radio and television. Boating accident statistics show that youth or inexperience on the water does not necessarily account for many of the reported accidents. In order to implement these recommendations, the Commission would need adequate funding through the General Assembly appropriations process. To this end, the Committee recommended that the 1983 General Assembly, in its Second Regular Session 1984, appropriate to the Department of Natural Resources and Community Development the funds necessary for the Wildlife Resources Commission to carry out the recommendations of this Committee.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

## RAILROADS

Authorization: Chapter 905, §1, 1983 Session Laws

## Committee Members:

## President Pro Tempore's Appointments

Sen. Dennis J. Winner,  
Cochairman  
P. O. Box 7621  
Asheville, N. C. 28807  
Tel: 704/258-0094

Sen. Elton Edwards  
P. O. Box 448  
Greensboro, N. C. 27402  
Tel: 919/ 373-8764

Sen. A. D. Guy  
511 New Bridge St.  
Jacksonville, N. C. 28540  
Tel: 919/ 346-4171

Sen. Robert B. Jordan, III  
100 Industry Ave.  
Mt. Gilead, N. C. 27306  
Tel: 919/ 439-6121

Sen. David R. Parnell

## Speaker's Appointments

Rep. John J. (Jack) Hunt,  
Cochairman  
Box 277  
Lattimore, N. C. 28089  
Tel: 704/ 434-6853

Rep. David Bumgardner, Jr.  
P. O. Box 904  
Belmont, N. C. 28012  
Tel: 704/ 825-5301

Rep. John T. Church  
420 Woodland Rd.  
Henderson, N. C. 27536  
Tel: 919/ 438-5368

Rep. Daniel T. Lilley  
P. O. Box 824  
Kinston, N. C. 28501  
Tel: 919/ 523-4309

Rep. Ray Sparrow

TRANSPORTATION

P. O. Box 100  
Parkton, N. C. 28371  
Tel: 919/ 858-3521

P. O. Box 33608  
Raleigh, N. C. 27606  
Tel: 919/ 833-7341

Mr. Thomas G. Lynch  
Assistant Vice President  
Seaboard System Railroad (ret.)  
1332 Biltmore Dr.  
Charlotte, N. C. 28207  
Tel: 704/ 334-9235(h)

Mr. Vernon Rochelle  
131 S. Queen St.  
Kinston, N. C. 28501  
Tel: 919/ 523-1121(o)

Professional Staff: Mr. Gerry F. Cohen Tel: 733-6660  
Legislative Services Office  
Clerical Staff: Mrs. Betsy Sykes Tel: 733-5732

RAILROADS

The Committee on the State's Interests in Railroad Properties held two full meetings and one subcommittee meeting, and discussed alternatives that the State had with the North Carolina Railroad and the Atlantic and North Carolina Railroad, whose operating leases with Southern Railway expire December 31, 1994.

The Committee made a final report to the 1985 Session.

The Committee recommended the establishment of a 12-member negotiating commission to present a common front of the State and the two railroads to any potential lessees or purchasers.

The Committee made no recommendation whether the State's 75 percent (75%) interest in the two railroads should be sold or the properties be leased again, but directed the Commission to begin negotiations with a goal of concluding a contract by June 30, 1988. If no agreement favorable to the State and railroads is reached by that time, the Commission is to report and suggest alternatives.

The Committee prefers that the sale or lease involve both railroads, but the Commission may examine other alternatives.

The Committee recommends that if the stock is sold, the proceeds be placed in a special capital improvements fund.

The Negotiating Committee will consist of 12 members; two appointed by the Governor, two each by the Speaker and Lieutenant Governor, two by each railroad, and the Attorney General and State Treasurer (or staff member) both serving ex officio.

The Committee recommended that in any lease the lessee cooperate with innovative uses, such as fiber optics, light rail, or passenger service.

If the Commission recommends a new lease, current statutes require approval of the Governor and Council of State. If the Commission recommends a sale of stock, current statutes require approval of the General Assembly.

The Committee found that continued freight service on both routes is necessary to further economic development, and that passenger service is beneficial to the State.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE

TRANSPORTATION

BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-  
7778.

STUDIES NOT ASSIGNED TO LRC MEMBER

XI. STUDIES NOT ASSIGNED TO LRC MEMBER

AIR AMBULANCE SERVICE

Authorization: Not in a ratified Chapter; authorized by LRC  
Cochairmen pursuant to G.S. 120-30.17

Committee Members:

President Pro Tempore's Appointments

Speakers's Appointments

Sen. Aaron W. Plyler, Cochairman  
2170 Concord Avenue  
Monroe, N. C. 28110  
Tel: 704/ 289-3541  
704/ 283-1283

Rep. Joe Hackney, Cochairman  
P. O. Box 1329  
Chapel Hill, N. C. 27514  
Tel: 919/ 929-0323

Sen. Elton Edwards  
P. O. Box 448  
Greensboro, N. C. 27402  
Tel: 919/ 373-8764

Rep. Daniel H. Devane  
P. O. Drawer N  
Raeford, N. C. 28376  
Tel: 919/ 875-2528

Sen. A. D. Guy  
511 New Bridge Street  
Jacksonville, N. C. 28540  
Tel: 919/ 346-4171

Rep. Wendell Murphy  
Rt. 1, Box 76E  
Rose Hill, N. C. 28458  
Tel: 919/ 289-2970

Mr. James A. Hackney, Jr.  
P. O. Box 787  
Washington, N. C. 27889  
Tel: 919/ 946-6521

Rep. Charles Owens  
P. O. Box 610  
520 W. Main St.  
Forest City, N. C. 28043  
Tel: 704/ 245-6951

Dr. Herbert Proctor  
Department of Surgery  
University of North Carolina at  
Chapel Hill  
Chapel Hill, N. C. 27514  
Tel: 919/ 966-4389

Mr. Eric B. Munson,  
Executive Director  
North Carolina Memorial Hospital  
University of North Carolina  
Chapel Hill, N. C. 27514  
Tel: 919/ 966-5111

Professional Staff: Mr. Linwood Jones Tel: 733-2578  
Legislative Services Office

Clerical staff: Mrs. Bobbie Poole Tel: 733-5977

AIR AMBULANCE SERVICE

The Air Ambulance Service Study Committee and its subcommittee met three times to consider the feasibility of an air ambulance service financed by the State. The Committee first heard the recommendations of the Air Ambulance Task Force appointed by Dr. Sara Morrow. The Task Force recommended that the State purchase helicopters for six sites: Asheville, Charlotte, Greenville, the

Triangle area, Wilmington and Winston-Salem. Each helicopter would service an 80 to 100 mile radius from its base site, and the State would coordinate the six sites.

The Committee also heard from administrators from Duke University Medical Center and Pitt County Memorial Hospital. Both institutions have received State approval to develop their own air ambulance services, and Duke intends to have its service operating by March, 1985. Several persons also commented on the problems and unreliability of the MAST program, a voluntary helicopter transport program sponsored by the United States Army and stationed at the Fort Bragg military reservation.

#### Findings

The Committee found that approximately 2,500 seriously injured patients would use an air ambulance each year; that the enormously high cost of helicopters prohibits most hospitals from providing air ambulance services; and that the State should partially or wholly finance a statewide air ambulance service.

#### Recommendations

In its final report to the 1985 General Assembly, the Committee recommended that the State initially lease helicopter emergency medical services for at least three hospital sites in North Carolina. Determination of the location of each site and all regulatory authority over the program would be vested in the Medical Care Commission. The Department of Human Resources would be empowered to establish, maintain and promote the program and would also be responsible for contracting with the provider(s) of helicopter emergency medical services and the designated hospitals. Any hospital operating an air ambulance independent of the state's program would be required to coordinate its activities with the state air ambulance system.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

#### COASTAL SUBMERGED LANDS

Authorization: Chapter 1112, § 3, 1983 Session  
Laws (H 738)

#### Committee Members:

##### President Pro Tempore's Appointments

Sen. R. C. Soles, Jr.,  
Cochairman  
P. O. Box 6  
Tabor City, N. C. 28463  
Tel: 919/ 653-2015

##### Speaker's Appointments

Rep. W. Paul Pulley, Jr.  
Brightleaf Square  
P. O. Box 3600  
Durham, N. C. 27702  
Tel: 919/ 682-9691



STUDIES NOT ASSIGNED TO LRC MEMBER

Sen. A. D. Guy  
511 New Bridge St.  
Jacksonville, N. C. 28540  
Tel: 919/ 346-4171

Rep. Al Adams  
P. O. Box 389  
Raleigh, N. C. 27602  
Tel: 919/ 828-0564

Sen. William W. Staton  
205 Courtland Dr.  
Sanford, N. C. 27330  
Tel: 919/ 775-5616

Rep. Charles D. Evans  
P. O. Box 189  
Manteo, N. C. 27954  
Tel: 919/ 473-2171

Dr. Alfred Chestnut  
UNC Institute of Marine Sciences  
110 Holly Lane  
Morehead City, N. C. 28557  
Tel: 919/ 726-6841

Rep. Murray P. Pool  
P. O. Box 779  
Clinton, N. C. 28328  
Tel: 919/ 592-2662

Ms. Karen Gottovi  
Route 3, Box 3447  
Wilmington, N. C. 28403  
Tel: 919/ 341-7149

Rep. E. David Redwine  
P. O. Box 1238  
Shallotte, N. C. 28459  
Tel: 919/ 754-4326

Professional Staff: Mr. Conrad A. Airall Tel: 733-2578  
Legislative Services Office  
Clerical Staff: Mrs. July Britt Tel: 733-4409

COASTAL SUBMERGED LANDS

The Legislation, Section 3 of Chapter 1112 of the 1983 Session Laws, which authorized this study, directed the Legislative Research Commission to study several matters relating to claims to the coastal submerged lands by private individuals. The private claims were registered under the provisions of G.S. 113-205. That statutory provision, first enacted in 1965, requires, among other things, that all persons "claiming any part of the bed lying under navigable waters ... or any right of fishery in navigable waters" in any of 25 coastal counties, and which claims were "superior to that of the general public" were to register such claims with the Secretary of Natural Resources and Community Development. The registrations were to be completed by January 1, 1970, or the claims would be rendered "null and void."

The Committee met on November 16, and December 4, 1984. The Committee was given a comprehensive account of how the Attorney General's Office has been dealing with the claims, the legal history of submerged lands, a general survey of the claims, the policy of the Department of Administration (DOA) and the Department of Natural Resources and Community Development (NRCD), and the immediate problems confronting the state because of the G.S. 113-205 claims.

The committee learned that about 3,000 claimants registered approximately 10,000 claims under G.S. 113-205. The claims have been divided into: shellfish, marshlands, fee simple, nonsubmerged lands, and other miscellaneous categories.

The issues raised by the study are numerous, and they are complex. Due to budget and time constraints the Committee was

unable to address every issue. The primary and most immediate concern is that the State of North Carolina faces the immediate loss of a substantial portion of State-owned submerged land in the coastal areas to private ownership. It is estimated that as much as seventy percent (70%) of all estuarine lands between Carteret County and the South Carolina border are privately claimed. These lands are embraced with public trust rights. The title is held by the State in trust for the use and benefit of all of the people.

The committee made several findings which show the urgency of the problem confronted by the State. Most significantly the state may, in 1990, be barred from taking any legal action on the titles to lands claimed under G.S. 113-205. At that time those private individuals would obtain title by adverse possession under G.S. 1-35(2). The Committee's findings are on pages 18 through 20 of the report.

The Committee urges that the General Assembly act as quickly as possible to enact legislation to assist the appropriate State agencies in resolving the claims under G.S. 113-205. It specifically recommended five pieces of legislation which would:

(a) prevent ownership of public trust property by adverse possession;

(b) modify the procedures by which claims to submerged lands may be prosecuted; and require that the State respond to the claims by a time certain;

(c) confirm title to raised lands in an owner whose board of education deed included regularly flooded estaurine marsh lands at lands beneath navigable waters;

(d) confirm and validate title as conveyed by the board of education to certain lands where the conveyances may have had certain irregularities, and require a state tax credit for donating certain G.S. 113-205 claims.

(e) resolve claims to shellfish beds by allowing the Secretary of Natural Resources and Community Development to issue shellfish leases for claimed areas which include natural shellfish beds.

The Committee felt that because of the complexity of the issues and because they are of such significance to the State public hearings will be necessary before any legislation affecting submerged lands under navigable waters is enacted. Recommendation "F" on page 23 is to this affect. It is also recommended that the General Assembly: (i) consider enacting legislation to designate a guardian of the public trust rights; (ii) study the possibility of authorizing fees for leases or easements on public trust areas used for private purposes; (iii) study the repeal of the Constitutional provision which requires funds from the sale of swamp lands to go to the public schools.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

STUDIES NOT ASSIGNED TO LRC MEMBER

HAZARDOUS WASTES STRICT LIABILITY

Authorization: Chapter 1112, § 1(1), 1983 Session  
Laws (H 738)

Committee Members:

President Pro Tempore's Appointments

Sen. Henson P. Barnes,  
Cochairman  
P. O. Drawer 7  
Goldsboro, N. C. 27530  
Tel: 919/ 735-6420

Sen. Charles W. Hipps  
Suite 305  
505 N. Main St.  
Waynesville, N. C. 28786  
Tel: 704/ 452-2866

Sen. W. Craig Lawing  
5521 Belhaven Blvd.  
Charlotte, N. C. 28216  
Tel: 704/ 399-6372

Sen. Russell G. Walker  
P. O. Box 1831  
Asheboro, N. C. 27203  
Tel: 919/ 625-6177

Mr. Charles D. Case  
Moore, Van Allen, & Moore  
200 West Morgan St.  
P. O. Box 26507  
Raleigh, N. C. 27611  
Tel: 919/ 828-4481

Professional Staff: Miss Libby Lefler Tel: 733-2578  
Legislative Services Office

Clerical staff: Mrs. Sue Floyd Tel: 733-5649

Speakers's Appointments

Rep. William E. Clark,  
Cochairman  
2850 Village Dr.  
Fayetteville, N. C. 28304  
Tel: 919/ 483-2979

Rep. Frank W. Ballance, Jr.  
113 W. Market St.  
Warrenton, N. C. 27589  
Tel: 919/ 257-1012

Rep. Joe Hackney  
P. O. Box 1329  
Chapel Hill, N. C. 27514  
Tel: 919/ 929-0323

Rep. Martin L. Nesbitt  
Suite 814  
Northwestern Bank Building  
Asheville, N. C. 28801  
Tel: 704/ 252-0490

Rep. Joseph B. Roberts, III  
1432 Laurel Lane  
Gastonia, N. C. 28052  
Tel: 704/ 867-4674

HAZARDOUS WASTES STRICT LIABILITY

The Hazardous Wastes Strict Liability Study Committee met three times. The Committee heard from various speakers and discussed whether the General Assembly should adopt by statute strict liability for damages resulting from hazardous wastes in North Carolina.

The Committee made the following recommendations to the 1985 General Assembly:

(1) The North Carolina General Assembly should adopt by statute strict liability for damages resulting from hazardous wastes in North Carolina.

(2) Governmental immunity from strict liability for damages caused by a hazardous waste occurrence should be waived only to the extent that the damages do not exceed the amount authorized by the North Carolina Tort Claims Act, G.S. 143-291.

(3) The person in control of a hazardous waste at the time of a hazardous waste occurrence should be strictly liable for resulting damages. The generator of a hazardous waste, however, should be strictly liable, jointly and severally, with the person in control of the waste at the time of the occurrence. The liability of the generator should end when the waste is transferred to a hazardous waste facility in accordance with federal and State requirements.

(4) The following defenses should be available to a strict liability action: that the claimant had knowledge of the danger and voluntarily and unreasonably encountered that danger; that the hazardous waste occurrence was caused solely by an act of God, an act of war, an act of sabotage, or an intentional act or omission of a third party.

(5) Punitive or exemplary damages should not be available.

(6) The availability of a cause of action under the theory of strict liability should not prohibit a claimant from electing to pursue an existing cause of action under statutory or common law, or from exercising any right to seek enforcement of any standard or the imposition of civil or criminal sanctions.

(7) The time period in which a cause of action accrues should be limited to thirty years from the last act or omission of the defendant giving rise to the cause of action.

THE FULL REPORT OF THIS COMMITTEE CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA 27611, TELEPHONE (919) 733-7778.

XII. OTHER REPORTS

ELEEMOSYNARY INSTITUTIONS

Authorization: Chapter 905, §1, 1983 Session Laws (H.J.R. 1423)

General Statutes Commission Members:

Lieutenant Governor's Appointment      Speaker's Appointment

Sen. Cecil R. Jenkins, Jr.  
P. O. Box 65  
Kannapolis, N. C. 28081  
Tel: 704/ 786-2189

Rep. William E. Clark  
2850 Village Drive  
Fayetteville, N. C. 28304  
Tel: 919/ 483-2979

Governor's Appointments:

Mr. James L. Nelson  
P. O. Box 1767  
Wilmington, N. C. 28402  
Tel: 919/ 763-7760(o)

Mr. Melvin L. Watt  
951 S. Independence Blvd.  
Charlotte, N. C. 28202  
Tel: 704/ 375-8461(o)

Additional Designees Specified in Legislation:

Ms. Doris Bray  
Suite 500  
101 W. Friendly Avenue  
P. O. Box 21927  
Greensboro, N. C. 27420  
Tel: 919/ 378-1450(o)

Mr. Patrick K. Hetrick  
Campbell Univ. School of Law  
P. O. Box 158  
Buies Creek, N. C. 27506  
Tel: 919/ 893-4111(o)  
919/ 893-3856(h)

Dr. Robert G. Byrd  
UNC School of Law  
Chapel Hill, N. C. 27514  
Tel: 919/ 962-8508(o)  
919/ 942-5777(h)

Mr. Melvin G. Shimm  
Duke Univ. School of Law  
Durham, N. C. 27706  
Tel: 919/ 684-6835(o)

Mr. Don R. Castleman  
Wake Forest Univ. School of Law  
Box 7206 Reynolda Station  
Winston-Salem, N. C. 27109  
Tel: 919/ 761-5701(o)

Mr. Richard Tyndall  
P. O. Box 614  
Winston-Salem, N. C. 27102  
Telephone: (919) 725-8385(o)

Mr. Thomas Earnhardt  
1420 Eden Lane  
Raleigh, N. C. 27608  
Tel: 919/ 683-6348

Mr. Kenneth R. Youngblood,  
(Acting Chairman)  
Attorney At Law  
240 Third Avenue, West

919/ 821-5683(h)

Hendersonville, N. C. 28739

Tel: 704/ 692-2595(o)

704/ 891-4620(h)

Professional Staff: Mr. Charlie Murray Tel: 733-5960  
Department of Justice

# ELEEMOSYNARY INSTITUTIONS

Due to insufficiency of funds, the Legislative Research Commission referred to the General Statutes Commission the study on the establishment of guidelines for the management and use of investments held by eleemosynary institutions. On May 17, 1984, the General Statutes Commission reported to the Legislative Research Commission on its study of this matter and recommended that the Legislative Research Commission recommend to the 1984 Session of the General Assembly enactment of the Uniform Management Investment Funds Act.

The Legislative Research Commission accepted the report of the General Statutes Commission for transmittal to the 1985 Session of the General Assembly.

COPIES OF THE REPORT TO THE 1985 SESSION OF THE GENERAL ASSEMBLY CAN BE OBTAINED BY CONTACTING THE LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING, RALEIGH, NORTH CAROLINA, 27611, TELEPHONE (919) 733-7778.

## POLLUTION PREVENTION PAYS RESEARCH CENTER

Authorization: Resolution 54 (S.J.R. 653), 1983 Session Laws

Hazardous Waste Study Commission of 1983 Committee Members:

Lieutenant Governor's Appointments	Speaker's Appointments
------------------------------------	------------------------

Sen. Joseph E. Thomas,  
Cochairman  
P. O. Box 337  
Vanceboro, N. C. 28586  
Tel: 919/ 346-9721

Rep. Martin L. Nesbitt,  
Cochairman  
Suite 814, Northwestern  
Bank Building  
Asheville, N. C. 28801  
Tel: 704/ 252-0490

Truman L. Koehler, Jr.,  
President  
Sodyeco, Inc.  
P. O. Box 66-9246  
Charlotte, N. C. 28266

Mr. William E. Holman  
922 Wimbleton Drive  
Raleigh, N. C. 27609

Sen. Aaron W. Plyler  
2170 Concord Avenue  
Monroe, N. C. 28110  
Tel: 704/ 289-3541  
283-1283

Rep. Wendell H. Murphy  
Rt. 1, Box 76E  
Rose Hill, N. C. 28458  
Tel: 919/ 289-2970

Dr. Theodore R. Rice  
115 Holly Lane  
Morehead City, N. C. 28557

Mr. J. Patrick Price  
Corporate Manager of  
Environmental Affairs  
American Enka Company  
Enka, N. C. 28728

Sen. Robert S. Swain  
612 Northwestern Bank Building  
Asheville, N. C. 28801  
Tel: 704/ 255-7703

Rep. W. Paul Pulley, Jr.  
Brightleaf Square  
P. O. Box 3600  
Durham, N. C. 27702  
Tel: 919/ 682-9691

Professional Staff: Mr. Jim Blackburn Tel: 733-2578  
Legislative Services Office  
Clerical staff: Mrs. Pat Misner Tel: 733-5659(o)

POLLUTION PREVENTION PAYS RESEARCH CENTER

Due to insufficiency of funds, the Legislative Research Commission referred to the Hazardous Waste Study Commission of 1983 the study on the Pollution Prevention Pays Research Center. On May 17, 1984, the Hazardous Waste Study Commission reported to the Legislative Research Commission on its study of this matter.

The Legislative Research Commission accepted the report of the Hazardous Waste Study Commission.

COPIES OF THE ACCEPTED REPORT CAN BE OBTAINED BY CONTACTING THE  
LEGISLATIVE LIBRARY, ROOM 2126, 2226, STATE LEGISLATIVE BUILDING,  
RALEIGH, NORTH CAROLINA, 27611 TELEPHONE (919) 733-7778.















